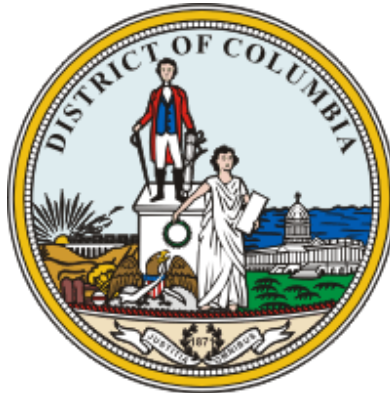




Appendices I-VIII to ~~the~~ Report #1: ~~on~~
Recommendations for Enactment of D.C. Code
Title 22 and Other Changes to
Criminal Statutes (Second Draft)



SUBMITTED FOR ADVISORY GROUP REVIEW

~~November 2, 2016~~ January 25, 2017

DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION
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Note: Appendix IX: Draft Bill: “Enactment of Title 22 and Criminal Code Amendments Act of 2017” is a separate document.

APPENDIX I: ARCHAIC AND UNUSED OFFENSES AND PROVISIONS LIST & TEXT

Note: All statute texts are taken from the online LexisNexis District of Columbia Official Code. The texts in the Official Code are current through April 5, 2016.

Part 1: Archaic and Unused Statutes in Title 22.

D.C. Code § 22-1003. Rest, water and feeding for animals transported by railroad company.

No railroad company, in the carrying or transportation of animals, shall permit the same to be confined in cars for a longer period than 24 hours, without unloading the same, for rest, water, and feeding, for a period of at least 5 consecutive hours, unless prevented from so unloading by storm or other accidental causes. In estimating such confinement the time during which such animals have been confined without such rest on connecting roads from which they are received shall be included; it being the intent of this section to prohibit their continuous confinement beyond the period of 24 hours, except upon contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered, and sheltered during such rest by the owner or person having the custody thereof, or in case of his default in so doing, then by the railroad company transporting the same, at the expense of said owner or persons in custody thereof. And said company shall, in such case, have a lien upon such animals for food, care, and custody furnished, and shall not be liable for any detention of such animals authorized by this section. Any company, owner, or custodian of such animals who fails to comply with the provisions of this section shall, for each and every such offense, be liable for and forfeit and pay a penalty of not less than \$1 nor more than \$500; provided, however, that when animals shall be carried in cars in which they can and do have proper food, water, space, and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

D.C. Code § 22-1012(a). Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 and not more than the amount set forth in § 22-3571.01, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any

useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

D.C. Code § 22-1308. Playing games in streets.

It shall not be lawful for any person or persons to play the game of football, or any other game with a ball, in any of the streets, avenues, or alleys in the City of Washington; nor shall it be lawful for any person or persons to play the game of bandy, shindy, or any other game by which a ball, stone, or other substance is struck or propelled by any stick, cane, or other substance in any street, avenue, or alley in the City of Washington, under a penalty of not more than \$5 for each and every such offense.

D.C. Code § 22-3303. Grave robbery; buying or selling dead bodies.

Whoever, without legal authority or without the consent of the nearest surviving relative, shall disturb or remove any dead body from a grave for the purpose of dissecting, or of buying, selling, or in any way trafficking in the same, shall be imprisoned not less than 1 year nor more than 3 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

~~**D.C. Code § 22-3307. Destroying or defacing public records.**~~

~~Whoever maliciously or with intent to injure or defraud any other person defaces, mutilates, destroys, abstracts, or conceals the whole or any part of any record authorized by law to be made, or pertaining to any court or public office in the District, or any paper duly filed in such court or office, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.~~

~~**D.C. Code § 22-3309. Destroying boundary markers.**~~

~~Whoever maliciously cuts down, destroys, or removes any boundary tree, stone, or other mark or monument, or maliciously effaces any inscription thereon, either of his or her own lands or of the lands of any other person whatsoever, even though such boundary or bounded trees should stand within the person's own land so cutting down and destroying the same, shall be fined not more than the amount set forth in § 22-3571.01 and imprisoned not exceeding 180 days.~~

~~D.C. Code § 22-3313. Destroying or defacing building material for streets.~~

~~It shall not be lawful for any person or persons to destroy, break, cut, disfigure, deface, burn, or otherwise injure any building materials, or materials intended for the improvement of any street, avenue, alley, foot pavement, roads, highways, or inclosure, whether public or private property, or remove the same (except in pursuance of law or by consent of the owner) from the place where the same may be collected for purposes of building or improvement as aforesaid; or to remove, cut, destroy, or injure any scaffolding, ladder, or other thing used in or about such building or improvement, under a penalty of not more than \$25 for each and every such offense.~~

~~D.C. Code § 22-3314. Destroying cemetery railing or tomb.~~

~~If any person shall maliciously cut down, demolish, or otherwise injure any railing, fence, or inclosure around or upon any cemetery, or shall injure or deface any tomb or inscription thereon, such person shall be fined not more than \$100.~~

~~D.C. Code § 22-3319. Placing obstructions on or displacement of railway tracks.~~

~~Whoever maliciously places an obstruction on or near the track of any steam or street railway, or displaces or injures anything appertaining to such track, with intent to endanger the passage of any locomotive or car, shall be imprisoned for not more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.~~

D.C. Code § 22-3320. Obstructing public road; removing milestones.

If any person shall alter or in any manner obstruct or encroach on a public road, or cut, destroy, deface, or remove any milestones set up on such road, or place any rubbish, dirt, logs, or make any pit or hole therein, such person may be indicted, and, upon conviction thereof before the proper court, shall be fined or imprisoned, in the discretion of the court, according to the nature of the offense.

Part 2: Archaic and Unused Offenses Outside of Title 22.

D.C. Code § 3-206. Unlawful acts.

Any person who shall, in the District of Columbia, sell or buy any body aforesaid, or in any way traffic therewith, or transmit or convey any such body to any place outside of said District, or cause or procure any such body to be so transmitted or conveyed, or who shall, in said District, disturb or remove, without legal permit, any body from any grave or vault, shall, on conviction thereof, be fined not more than \$200 or imprisoned in the Workhouse of said District for not more than 1 year.

D.C. Code § 4-125. Assisting child to leave institution without authority; concealing such child; duty of police.

Any person who shall entice or attempt to entice, away from any home or institution, any child legally committed to the Board of Public Welfare and placed by said Board in such home or institution, or any person who shall assist or attempt to assist any such child to leave without permission such home or institution, knowing such child to be an inmate of such institution or to have been placed in such home, or any person who shall harbor, conceal, or aid in harboring or concealing any such child who shall be absent without leave from a home or institution in which he has been placed by the Board of Public Welfare, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall pay a fine of not less than \$10 nor more than \$100; and any policeman shall have power, and it is hereby made his duty, to take into custody any child, when in his power to do so, who shall be absent without leave from a home or institution in which he has been placed and return him thereto or to the Receiving Home.

D.C. Code § 8-305. Penalty.

Any person who shall violate any of the provisions of §§ 151 - 154 [repealed], 156 - 161 [repealed] and 162 - 164a [repealed] of Title 7, United States Code, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in said sections, or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court; provided, that no common carrier shall be deemed to have violated the provisions of §§ 152 [repealed], 154 [repealed], 156 - 161 [repealed] and 162 [repealed] of Title 7, United States Code, on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such from 1 state, territory, or district of the United States into or through any other state, territory, or district; and it shall be the duty of the United States Attorneys diligently to prosecute any violations of §§ 151 - 154 [repealed], 156 - 161 [repealed] and 162 - 164a [repealed] of Title 7, United States Code which are

brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

D.C. Code § 9-433.01. Permit required; exceptions.

It shall be unlawful for any person to make any cut or trench in any highway, reservation, or public space in the District of Columbia, or to disturb or remove any public work or material therein, without a permit so to do from the Mayor of the District of Columbia. The person obtaining such a permit shall abide by all conditions and provisions of the permit; provided, that nothing in this section shall be construed to apply to public buildings of the United States, or to diminish the authority of the officer in charge of public buildings and grounds, or the Architect of the Capitol.

D.C. Code § 9-433.02. Penalty; prosecution.

Any person violating any of the provisions of § 9-433.01 shall on conviction thereof in the Superior Court of the District of Columbia be punished by a fine of not less than \$100 nor more than \$1,000; and in default of payment of such fine such person shall be confined in the workhouse of the District of Columbia for a period not exceeding 6 months; and all prosecutions shall be in the Superior Court of the District of Columbia, in the name of the District of Columbia.

D.C. Code § 34-701. False statements in securing approval for stock issue.

Each and every director, president, secretary, or other official of any such public utility who shall make any false statement to secure the issue of any stock, certificate of stock, bond, mortgage, or other evidence of indebtedness, or who shall, by false statement knowingly made, procure of the Commission the making of the certificate herein provided, or issue, with knowledge of such fraud, negotiate, or cause to be negotiated, any such stock, certificate of stock, bond, mortgage, or other evidence of indebtedness in violation of this subtitle, shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than \$1,000 or by imprisonment for a term of not less than 1 year, or by both such fine and imprisonment, in the discretion of the court.

D.C. Code § 34-707. Destruction of apparatus or appliance of Commission.

Any person who shall destroy, injure, or interfere with any apparatus or appliance owned or operated by or in charge of the Commission or its agent shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding \$100 or imprisonment for a period not exceeding 30 days, or both.

D.C. Code § 36-153. Unauthorized use, defacing, or sale of registered vessel.

Whoever, except the person who shall have filed and published a description of the same as aforesaid, fills with milk or cream, or other beverage, as aforesaid, with intent to sell the same, any vessel so marked and distinguished as aforesaid, the description of which shall have been filed and published as provided in § 36-152, or defaces, erases, covers up, or otherwise removes or conceals any such name or mark as aforesaid, or the word "registered," thereon, or sells, buys, gives, takes, or otherwise disposes of, or traffics in the same without having purchased the contents thereof from the person whose name is in or upon such vessel, or without the written consent of such person, shall, for the 1st offense, be punished by a fine of not less than \$.50 for each such vessel, or by imprisonment for not less than 10 days nor more than 1 year, or by both such fine and imprisonment; and for each subsequent offense by a fine of not less than \$1 nor more than \$5 for each such vessel, or by imprisonment for not less than 20 days nor more than 1 year, or by both such fine and imprisonment.

D.C. Code § 47-102. Total indebtedness not to be increased.

There shall be no increase of the amount of the total indebtedness of the District of Columbia existing on June 11, 1878; and any officer or person who shall knowingly increase, or aid or abet in increasing, such total indebtedness, shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be punished by imprisonment not exceeding 10 years, and by fine not more than the amount set forth in [§ 22-3571.01].

APPENDIX II: TECHNICAL AMENDMENTS LIST & TEXT

Note: All statute texts are taken from the online LexisNexis District of Columbia Official Code. The texts in the Official Code are current through April 5, 2016.

Part 1 of this Appendix lists the technical amendments made to statutes in Title 22. The revised text of each statute is in the portion of the legislation in Appendix IX that enacts Title 22. Part 2 of this Appendix contains side-by-side comparison of the current and revised statutes outside of Title 22 for which technical amendments are recommended. The righthand columns in Part 2 reflect the amendments as drafted in title 2 of the bill in Appendix IX.

Part 1 begins on the next page.

Part 1: List of Technical Amendments to Statutes in Title 22.

1. D.C. Code § 22-302: Inserting “or her” after “his.”

“Attorney General for the District of Columbia.”

2. D.C. Code § 22-722(a)(3)(5): Inserting “or her” after the second reference to “his.”

13. D.C. Code § 22-2703: Striking “, the Women’s Bureau of the Police.” and inserting “the Metropolitan Police Department”.

~~**3. D.C. Code § 22-811(e):** Striking subsection (e) delegating prosecutorial authority to the Attorney General or his or her assistants.~~

14. D.C. Code § 22-3020(c): Striking “Corporation Counsel” and inserting “Attorney General for the District of Columbia.”

4. D.C. Code § 22-935: Inserting “or she” after both references to “he.”

15. D.C. Code § 22-3214.01(c)(2): Inserting “or her” after “his” both times it appears.

5. D.C. Code § 22-1102: Striking “in the Workhouse of the District of Columbia.”

16. D.C. Code § 22-3225.05(c): Striking “Corporation Counsel” and inserting “Attorney General for the District of Columbia.”

6. D.C. Code § 22-1311:

a. Inserting “or she” after “he” both times it appears.

b. Inserting “or her” after “him” in subsection (b).

17. D.C. Code § 22-3226.01(8): Inserting “or herself” after “himself.”

7. D.C. Code § 22-1317: Striking “City of Washington” and inserting “District of Columbia.”

18. D.C. Code § 22-3318:

a. Striking “City of Washington” and inserting “District of Columbia.”

b. Striking “at hard labor” and inserting “for.”

8. D.C. Code § 22-1406: Inserting “or herself” after “himself.”

9. D.C. Code § 22-1702: Inserting “or her” after the second reference to “his.”

19. D.C. Code § 22-3403:

a. Striking “Corporation Counsel” and inserting “Attorney General for the District of Columbia.”

b. Striking “Assistant Corporation Counsel” and inserting “Assistant Attorney General for the District of Columbia.”

c. Striking the last sentence.

10. D.C. Code § 22-1809: Striking “committed to the Workhouse of the District of Columbia” and inserting “imprisoned.”

11. D.C. Code § 22-1810: in the title of the statute, inserting “or her” after “his.”

12. D.C. Code § 22-2305: Striking “Corporation Counsel” and inserting

20. D.C. Code § 22-4331: Striking “Corporation Counsel or any Assistant Corporation Counsel” and inserting “Attorney General for the District of

Columbia or any Assistant Attorney General
for the District of Columbia.

21. D.C. Code § 22-4504.02(a): Inserting
“or she” after “he” both times it appears.

Part 2: List of Technical Amendments to Statutes Outside Title 22.

For the sake of space, some statutes are excerpted below to only show sections that are being amended. Omissions are indicated by “[. . .]”.

CURRENT STATUTE

PROPOSED STATUTE

1 **D.C. Code § 2-381.09. Penalties for false**
2 **representations.**
3
4 Whoever makes or presents to any officer or
5 employee of the District of Columbia
6 government, or to any department or agency
7 thereof, any claim upon or against the
8 District of Columbia, or any department or
9 agency thereof, knowing such claim to be
10 false, fictitious, or fraudulent, shall be
11 imprisoned not more than one year and
12 assessed a fine of not more than \$ 100,000
13 for each violation of this chapter. The
14 Attorney General for the District of
15 Columbia shall prosecute violations of this
16 section. The fine set forth in this section
17 shall not be limited by § 22-3571.01.
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39 **representations.**
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42 employee of the District of Columbia
43 government, or to any department or agency
44 thereof, any claim upon or against the
45 District of Columbia, or any department or
46 agency thereof, knowing such claim to be
47 false, fictitious, or fraudulent, shall be
48 imprisoned not more than one year and
49 assessed a fine of not more than \$ 100,000
50 for each violation of this chapter. ~~The~~
51 ~~Attorney General for the District of~~
52 ~~Columbia shall prosecute violations of this~~
53 ~~section.~~ The fine set forth in this section
54 shall not be limited by § 22-3571.01.
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1 **D.C. Code § 4-218.01. Fraud in obtaining**
2 **public assistance; repayment; liability of**
3 **family members; penalties.**

4
5 (a) Any person who, with the intent to
6 defraud, by means of false statement, failure
7 to disclose information, or impersonation, or
8 by other fraudulent device, obtains or
9 attempts to obtain or any person who
10 knowingly aids or abets such person in the
11 obtaining or attempting to obtain: (1) any
12 grant or payment of public assistance to
13 which he is not entitled; (2) a larger amount
14 of public assistance than that to which he or
15 she is entitled; (3) payment of any forfeited
16 grant of public assistance; or (4) a public
17 assistance identification card; or any person
18 who with intent to defraud the District aids
19 or abets in the buying or in any way
20 disposing of the real property of a recipient
21 of public assistance shall be guilty of a
22 misdemeanor and shall be sentenced to pay
23 a fine of not more than \$ 500, or to
24 imprisonment not to exceed one year, or
25 both.

26
27 (b) Any person who for any reason obtains
28 any payment of public assistance to which
29 he is not entitled, or in excess of that to
30 which he is entitled, shall be liable to repay
31 such sum, or if continued on assistance,
32 shall have future grants proportionately
33 reduced until the excess amount received
34 has been repaid. In any case in which, under
35 this section, a person is liable to repay any
36 sum, such sum may be collected without
37 interest by civil action brought in the name
38 of the District. Any repayment of General
39 Public Assistance required by this
40 subsection may, in the discretion of the
41 Mayor, be waived in whole or in part, upon
42 a finding by the Mayor that such repayment
43 would deprive such person, his spouse,
44 parent, or child of shelter or subsistence
45 needed to enable such person, spouse,
46 parent, or child to maintain a minimum

47 **D.C. Code § 4-218.01. Fraud in obtaining**
48 **public assistance; repayment; liability of**
49 **family members; penalties.**

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51 (a) Any person who, with the intent to
52 defraud, by means of false statement, failure
53 to disclose information, or impersonation, or
54 by other fraudulent device, obtains or
55 attempts to obtain or any person who
56 knowingly aids or abets such person in the
57 obtaining or attempting to obtain: (1) any
58 grant or ~~payment of public assistance to~~
59 ~~which he~~ payment of public assistance to
60 which he or she is not entitled; (2) a larger
61 amount of public assistance than that to
62 which he or she is entitled; (3) payment of
63 any forfeited grant of public assistance; or
64 (4) a public assistance identification card; or
65 any person who with intent to defraud the
66 District aids or abets in the buying or in any
67 way disposing of the real property of a
68 recipient of public assistance shall be guilty
69 of a misdemeanor and shall be sentenced to
70 pay a fine of not more than \$ 500, or to
71 imprisonment not to exceed one year, or
72 both.

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75 any payment of public assistance to which
76 ~~he~~ he or she is not entitled, or in excess of
77 that to which ~~he~~ he or she is entitled, shall
78 be liable to repay such sum, or if continued
79 on assistance, shall have future grants
80 proportionately reduced until the excess
81 amount received has been repaid. In any
82 case in which, under this section, a person is
83 liable to repay any sum, such sum may be
84 collected without interest by civil action
85 brought in the name of the District. Any
86 repayment of General Public Assistance
87 required by this subsection may, in the
88 discretion of the Mayor, be waived in whole
89 or in part, upon a finding by the Mayor that
90 such repayment would deprive such person,
91 ~~his~~ his or her spouse, parent, or child of
92 shelter or subsistence needed to enable such

CURRENT STATUTE

PROPOSED STATUTE

93 person, standard of health and well-being.
94 Collections of overpayments from TANF,
95 POWER, or former Aid to Families with
96 Dependent Children or former GPA
97 recipients shall be made in accordance with
98 rules promulgated by the Mayor.
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138 spouse, parent, or child to maintain a
139 minimum standard of health and well-being.
140 Collections of overpayments from TANF,
141 POWER, or former Aid to Families with
142 Dependent Children or former GPA
143 recipients shall be made in accordance with
144 rules promulgated by the Mayor.
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1 **D.C. Code § 4-218.05. Penalties.**
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3 (a) Any person who knowingly uses,
4 transfers, acquires, alters, purchases,
5 possesses, or transports one or more food
6 stamp coupons or access devices in a
7 manner not authorized by the Food Stamp
8 Act of 1964, approved August 31, 1964 (78
9 Stat. 703; 7 U.S.C. § 2011 et seq.) ("Food
10 Stamp Act"), or by regulations issued
11 pursuant to that Act, shall be guilty of a
12 misdemeanor, and upon conviction thereof
13 shall be fined no more than \$1,000 or
14 imprisoned for not more than 180 days, or
15 both.
16
17 (b) In addition to the penalty in subsection
18 (a) of this section, any person convicted of a
19 misdemeanor under this section shall be
20 subject to suspension by the Superior Court
21 from participation in the District of
22 Columbia food stamp program for a period
23 of one year consecutive to that period of
24 suspension mandated by section 6(b)(1) of
25 the Food Stamp Act (7 U.S.C. § 2015(b)(1)).
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27 (c) Prosecution under this section shall be
28 conducted in the Superior Court by the
29 Corporation Counsel.
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47 **D.C. Code § 4-218.05. Penalties.**
48
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50 transfers, acquires, alters, purchases,
51 possesses, or transports one or more food
52 stamp coupons or access devices in a
53 manner not authorized by the Food Stamp
54 Act of 1964, approved August 31, 1964 (78
55 Stat. 703; 7 U.S.C. § 2011 et seq.) ("Food
56 Stamp Act"), or by regulations issued
57 pursuant to that Act, shall be guilty of a
58 misdemeanor, and upon conviction thereof
59 shall be fined no more than \$1,000 or
60 imprisoned for not more than 180 days, or
61 both.
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64 (a) of this section, any person convicted of a
65 misdemeanor under this section shall be
66 subject to suspension by the Superior Court
67 from participation in the District of
68 Columbia food stamp program for a period
69 of one year consecutive to that period of
70 suspension mandated by section 6(b)(1) of
71 the Food Stamp Act (7 U.S.C. § 2015(b)(1)).
72
73 (c) Prosecution under this section shall be
74 conducted in the Superior Court by the
75 ~~Corporation Counsel~~ Attorney General for
76 the District of Columbia.
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1 **D.C. Code § 6-641.09. Building permits;**
2 **certificates of occupancy.**

3
4 (a) It shall be unlawful to erect, construct,
5 reconstruct, convert, or alter any building or
6 structure or part thereof within the District
7 of Columbia without obtaining a building
8 permit from the Inspector of Buildings, and
9 said Inspector shall not issue any permit for
10 the erection, construction, reconstruction,
11 conversion, or alteration of any building or
12 structure, or any part thereof, unless the
13 plans of and for the proposed erection,
14 construction, reconstruction, conversion, or
15 alteration fully conform to the provisions of
16 this subchapter and of the regulations
17 adopted under said sections. In the event that
18 said regulations provide for the issuance of
19 certificates of occupancy or other form of
20 permit to use, it shall be unlawful to use any
21 building, structure, or land until such
22 certificate or permit be first obtained. It shall
23 be unlawful to erect, construct, reconstruct,
24 alter, convert, or maintain or to use any
25 building, structure, or part thereof or any
26 land within the District of Columbia in
27 violation of the provisions of said sections
28 or of any of the provisions of the regulations
29 adopted under said sections. The owner or
30 person in charge of or maintaining any such
31 building or land or any other person who
32 erects, constructs, reconstructs, alters,
33 converts, maintains, or uses any building or
34 structure or part thereof or land in violation
35 of said sections or of any regulation adopted
36 under said sections, shall upon conviction
37 for such violation on information filed in the
38 Superior Court of the District of Columbia
39 by the Corporation Counsel or any of his
40 assistants in the name of said District and
41 which Court is hereby authorized to hear
42 and determine such cases be punished by a
43 fine of not more than \$ 100 per day for each
44 and every day such violation shall continue.
45 The Corporation Counsel of the District of
46 Columbia or any neighboring property

47 **D.C. Code § 6-641.09. Building permits;**
48 **certificates of occupancy.**

49
50 (a) It shall be unlawful to erect, construct,
51 reconstruct, convert, or alter any building or
52 structure or part thereof within the District
53 of Columbia without obtaining a building
54 permit from the ~~Inspector of Buildings, and~~
55 ~~said Inspector~~ Department of Consumer and
56 Regulatory Affairs, and the Department of
57 Consumer and Regulatory Affairs shall not
58 issue any permit for the erection,
59 construction, reconstruction, conversion, or
60 alteration of any building or structure, or any
61 part thereof, unless the plans of and for the
62 proposed erection, construction,
63 reconstruction, conversion, or alteration
64 fully conform to the provisions of this
65 subchapter and of the regulations adopted
66 under said sections. In the event that said
67 regulations provide for the issuance of
68 certificates of occupancy or other form of
69 permit to use, it shall be unlawful to use any
70 building, structure, or land until such
71 certificate or permit be first obtained. It shall
72 be unlawful to erect, construct, reconstruct,
73 alter, convert, or maintain or to use any
74 building, structure, or part thereof or any
75 land within the District of Columbia in
76 violation of the provisions of said sections
77 or of any of the provisions of the regulations
78 adopted under said sections. The owner or
79 person in charge of or maintaining any such
80 building or land or any other person who
81 erects, constructs, reconstructs, alters,
82 converts, maintains, or uses any building or
83 structure or part thereof or land in violation
84 of said sections or of any regulation adopted
85 under said sections, shall upon conviction
86 for such violation on information filed in the
87 Superior Court of the District of Columbia
88 by the ~~Corporation Counsel or any of his~~
89 ~~assistants~~ Attorney General for the District
90 of Columbia or any of his or her assistants in
91 the name of said District and which Court is
92 hereby authorized to hear and determine

93 owner or occupant who would be specially
 94 damaged by any such violation may, in
 95 addition to all other remedies provided by
 96 law, institute injunction, mandamus, or other
 97 appropriate action or proceeding to prevent
 98 such unlawful erection, construction,
 99 reconstruction, alteration, conversion,
 100 maintenance, or use, or to correct or abate
 101 such violation or to prevent the occupancy
 102 of such building, structure, or land. Civil
 103 fines, penalties, and fees may be imposed as
 104 alternative sanctions for any infraction of the
 105 provisions of this subchapter, or any rules or
 106 regulations issued under the authority of
 107 these sections, pursuant to Chapter 18 of
 108 Title 2. Adjudication of any infraction of
 109 this chapter shall be pursuant to Chapter 18
 110 of Title 2.

111
 112 (b) A building permit shall not be issued to
 113 or on behalf of the District government
 114 unless proper notice has been given under §
 115 1-309.10. The Department of Consumer and
 116 Regulatory Affairs shall issue a cease and
 117 desist order to enjoin any construction
 118 project that is issued in noncompliance with
 119 this section.

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139 such cases be punished by a fine of not more
 140 than \$ 100 per day for each and every day
 141 such violation shall continue. The
 142 ~~Corporation Counsel of~~ Attorney General
 143 for the District of Columbia or any
 144 neighboring property owner or occupant
 145 who would be specially damaged by any
 146 such violation may, in addition to all other
 147 remedies provided by law, institute
 148 injunction, mandamus, or other appropriate
 149 action or proceeding to prevent such
 150 unlawful erection, construction,
 151 reconstruction, alteration, conversion,
 152 maintenance, or use, or to correct or abate
 153 such violation or to prevent the occupancy
 154 of such building, structure, or land. Civil
 155 fines, penalties, and fees may be imposed as
 156 alternative sanctions for any infraction of the
 157 provisions of this subchapter, or any rules or
 158 regulations issued under the authority of
 159 these sections, pursuant to Chapter 18 of
 160 Title 2. Adjudication of any infraction of
 161 this chapter shall be pursuant to Chapter 18
 162 of Title 2.

163
 164 (b) A building permit shall not be issued to
 165 or on behalf of the District government
 166 unless proper notice has been given under §
 167 1-309.10. The Department of Consumer and
 168 Regulatory Affairs shall issue a cease and
 169 desist order to enjoin any construction
 170 project that is issued in noncompliance with
 171 this section.

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1 **D.C. Code § 7-2502.01. Registration**
2 **requirements.**

3
4 [...]]

5
6 (b) Subsection (a) of this section shall not
7 apply to:

8
9 (1) Any law enforcement officer or agent
10 of the District or the United States, or any
11 law enforcement officer or agent of the
12 government of any state or subdivision
13 thereof, or any member of the armed forces
14 of the United States, the National Guard or
15 organized reserves, when such officer,
16 agent, or member is authorized to possess
17 such a firearm or device while on duty in the
18 performance of official authorized functions;

19
20 (2) Any person holding a dealer's license;
21 provided, that the firearm or destructive
22 device is:

23
24 (A) Acquired by such person in the
25 normal conduct of business;

26
27 (B) Kept at the place described in the
28 dealer's license; and

29
30 (C) Not kept for such person's private
31 use or protection, or for the protection of his
32 business;

33
34 (3) With respect to firearms, any
35 nonresident of the District participating in
36 any lawful recreational firearm-related
37 activity in the District, or on his way to or
38 from such activity in another jurisdiction;
39 provided, that such person, whenever in
40 possession of a firearm, shall upon demand
41 of any member of the Metropolitan Police
42 Department, or other bona fide law
43 enforcement officer, exhibit proof that he is
44 on his way to or from such activity, and that
45 his possession or control of such firearm is

46 **D.C. Code § 7-2502.01. Registration**
47 **requirements.**

48
49 [...]]

50
51 (b) Subsection (a) of this section shall not
52 apply to:

53
54 (1) Any law enforcement officer or agent
55 of the District or the United States, or any
56 law enforcement officer or agent of the
57 government of any state or subdivision
58 thereof, or any member of the armed forces
59 of the United States, the National Guard or
60 organized reserves, when such officer,
61 agent, or member is authorized to possess
62 such a firearm or device while on duty in the
63 performance of official authorized functions;

64
65 (2) Any person holding a dealer's license;
66 provided, that the firearm or destructive
67 device is:

68
69 (A) Acquired by such person in the
70 normal conduct of business;

71
72 (B) Kept at the place described in the
73 dealer's license; and

74
75 (C) Not kept for such person's private
76 use or protection, or for the protection of ~~his~~
77 his or her business;

78
79 (3) With respect to firearms, any
80 nonresident of the District participating in
81 any lawful recreational firearm-related
82 activity in the District, or on ~~his~~ his or her
83 way to or from such activity in another
84 jurisdiction; provided, that such person,
85 whenever in possession of a firearm, shall
86 upon demand of any member of the
87 Metropolitan Police Department, or other
88 bona fide law enforcement officer, exhibit
89 proof that ~~he~~ he or she is on ~~his~~ his or her
90 way to or from such activity, and that ~~his~~ his
91 or her possession or control of such firearm

92 lawful in the jurisdiction in which he
93 resides; provided further, that such weapon
94 shall be transported in accordance with § 22-
95 4504.02;

96
97 (4) Any person who temporarily
98 possesses a firearm registered to another
99 person while in the home or place of
100 business of the registrant; provided, that the
101 person is not otherwise prohibited from
102 possessing firearms and the person
103 reasonably believes that possession of the
104 firearm is necessary to prevent imminent
105 death or great bodily harm to himself or
106 herself; or

107
108 (5) Any person who temporarily
109 possesses a firearm while participating in a
110 firearms training and safety class conducted
111 by a firearms instructor.

112
113 (c) For the purposes of subsection (b)(3) of
114 this section, the term "recreational firearm-
115 related activity" includes a firearms training
116 and safety class.

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138 is lawful in the jurisdiction in which ~~he~~ **he or**
139 **she** resides; provided further, that such
140 weapon shall be transported in accordance
141 with § 22-4504.02;

142
143 (4) Any person who temporarily
144 possesses a firearm registered to another
145 person while in the home or place of
146 business of the registrant; provided, that the
147 person is not otherwise prohibited from
148 possessing firearms and the person
149 reasonably believes that possession of the
150 firearm is necessary to prevent imminent
151 death or great bodily harm to himself or
152 herself; or

153
154 (5) Any person who temporarily
155 possesses a firearm while participating in a
156 firearms training and safety class conducted
157 by a firearms instructor.

158
159 (c) For the purposes of subsection (b)(3) of
160 this section, the term "recreational firearm-
161 related activity" includes a firearms training
162 and safety class.

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1 **D.C. Code § 10-503.16. Unlawful**
2 **conduct.**

3

4 [...]

5

6 (c) Nothing contained in this section shall
7 forbid any act of any member of the
8 Congress, or any employee of a member of
9 the Congress, any officer or employee of the
10 Congress or any committee or subcommittee
11 thereof, or any officer or employee of either
12 House of the Congress or any committee or
13 subcommittee thereof, which is performed in
14 the lawful discharge of his official duties.

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47 **D.C. Code § 10-503.16. Unlawful**
48 **conduct.**

49

50 [...]

51

52 (c) Nothing contained in this section shall
53 forbid any act of any member of the
54 Congress, or any employee of a member of
55 the Congress, any officer or employee of the
56 Congress or any committee or subcommittee
57 thereof, or any officer or employee of either
58 House of the Congress or any committee or
59 subcommittee thereof, which is performed in
60 the lawful discharge of ~~his~~ his or her official
61 duties.

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1 **D.C. Code § 23-1327. Penalties for failure**
2 **to appear.**

3
4 (a) Whoever, having been released under
5 this title prior to the commencement of his
6 sentence, willfully fails to appear before any
7 court or judicial officer as required, shall,
8 subject to the provisions of the Federal
9 Rules of Criminal Procedure, incur a
10 forfeiture of any security which was given
11 or pledged for his release, and, in addition,
12 shall, (1) if he was released in connection
13 with a charge of felony, or while awaiting
14 sentence or pending appeal or certiorari
15 prior to commencement of his sentence after
16 conviction of any offense, be fined not more
17 than the amount set forth in [§ 22-3571.01]
18 and imprisoned not less than one year and
19 not more than five years, (2) if he was
20 released in connection with a charge of
21 misdemeanor, be fined not more than the
22 amount set forth in [§ 22-3571.01] and
23 imprisoned for not less than ninety days and
24 not more than 180 days, or (3) if he was
25 released for appearance as a material
26 witness, be fined not more than the amount
27 set forth in [§ 22-3571.01] or imprisoned for
28 not more than 180 days, or both.

29
30 (b) Any failure to appear after notice of the
31 appearance date shall be prima facie
32 evidence that such failure to appear is wilful.
33 Whether the person was warned when
34 released of the penalties for failure to appear
35 shall be a factor in determining whether
36 such failure to appear was wilful, but the
37 giving of such warning shall not be a
38 prerequisite to conviction under this section.

39
40 (c) The trier of facts may convict under this
41 section even if the defendant has not
42 received actual notice of the appearance date
43 if (1) reasonable efforts to notify the
44 defendant have been made, and (2) the
45 defendant, by his own actions, has frustrated
46 the receipt of actual notice.

47 **D.C. Code § 23-1327. Penalties for failure**
48 **to appear.**

49
50 (a) Whoever, having been released under
51 this title prior to the commencement of ~~his~~
52 his or her sentence, willfully fails to appear
53 before any court or judicial officer as
54 required, shall, subject to the provisions of
55 the Federal Rules of Criminal Procedure,
56 incur a forfeiture of any security which was
57 given or pledged for ~~his~~ his or her release,
58 and, in addition, shall, (1) if ~~he~~ he or she
59 was released in connection with a charge of
60 felony, or while awaiting sentence or
61 pending appeal or certiorari prior to
62 commencement of ~~his~~ his or her sentence
63 after conviction of any offense, be fined not
64 more than the amount set forth in [§ 22-
65 3571.01] and imprisoned not less than one
66 year and not more than five years, (2) if ~~he~~
67 he or she was released in connection with a
68 charge of misdemeanor, be fined not more
69 than the amount set forth in [§ 22-3571.01]
70 and imprisoned for not less than ninety days
71 and not more than 180 days, or (3) if ~~he~~ he
72 or she was released for appearance as a
73 material witness, be fined not more than the
74 amount set forth in [§ 22-3571.01] or
75 imprisoned for not more than 180 days, or
76 both.

77
78 (b) Any failure to appear after notice of the
79 appearance date shall be prima facie
80 evidence that such failure to appear is wilful.
81 Whether the person was warned when
82 released of the penalties for failure to appear
83 shall be a factor in determining whether
84 such failure to appear was wilful, but the
85 giving of such warning shall not be a
86 prerequisite to conviction under this section.

87
88 (c) The trier of facts may convict under this
89 section even if the defendant has not
90 received actual notice of the appearance date
91 if (1) reasonable efforts to notify the
92 defendant have been made, and (2) the

CURRENT STATUTE

PROPOSED STATUTE

93	(d) Any term of imprisonment imposed	139	defendant, by his <u>his or her</u> own actions, has
94	pursuant to this section shall be consecutive	140	frustrated the receipt of actual notice.
95	to any other sentence of imprisonment.	141	
96		142	(d) Any term of imprisonment imposed
97		143	pursuant to this section shall be consecutive
98		144	to any other sentence of imprisonment.
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1 **D.C. Code § 23-1329. Penalties for**
 2 **violation of conditions of release.**

3
 4 [...]

5
 6 (b) (1) Proceedings for revocation of release
 7 may be initiated on motion of the United
 8 States Attorney or on the court's own
 9 motion. A warrant for the arrest of a person
 10 charged with violating a condition of release
 11 may be issued by a judicial officer and if
 12 such person is outside the District of
 13 Columbia he shall be brought before a
 14 judicial officer in the district where he is
 15 arrested and shall then be transferred to the
 16 District of Columbia for proceedings in
 17 accordance with this section. No order of
 18 revocation and detention shall be entered
 19 unless, after a hearing, the judicial officer:

20
 21 (A) Finds that there is:

22
 23 (i) Probable cause to believe that the
 24 person has committed a federal, state, or
 25 local crime while on release; or

26
 27 (ii) Clear and convincing evidence
 28 that the person has violated any other
 29 condition of his release; and

30
 31 (B) Finds that:

32
 33 (i) Based on the factors set out in §
 34 23-1322(e), there is no condition or
 35 combination of conditions of release which
 36 will reasonably assure that the person will
 37 not flee or pose a danger to any other person
 38 or the community; or

39
 40 (ii) The person is unlikely to abide
 41 by a condition or conditions of release.

42
 43 (2) If there is probable cause to believe
 44 that while on release, the person committed
 45 a dangerous or violent crime, as defined by
 46 § 23-1331, or a substantially similar offense

47 **D.C. Code § 23-1329. Penalties for**
 48 **violation of conditions of release.**

49
 50 [...]

51
 52 (b) (1) Proceedings for revocation of release
 53 may be initiated on motion of the United
 54 States Attorney or on the court's own
 55 motion. A warrant for the arrest of a person
 56 charged with violating a condition of release
 57 may be issued by a judicial officer and if
 58 such person is outside the District of
 59 Columbia ~~he~~ he or she shall be brought
 60 before a judicial officer in the district where
 61 ~~he~~ he or she is arrested and shall then be
 62 transferred to the District of Columbia for
 63 proceedings in accordance with this section.
 64 No order of revocation and detention shall
 65 be entered unless, after a hearing, the
 66 judicial officer:

67
 68 (A) Finds that there is:

69
 70 (i) Probable cause to believe that the
 71 person has committed a federal, state, or
 72 local crime while on release; or

73
 74 (ii) Clear and convincing evidence
 75 that the person has violated any other
 76 condition of ~~his~~ his or her release; and

77
 78 (B) Finds that:

79
 80 (i) Based on the factors set out in §
 81 23-1322(e), there is no condition or
 82 combination of conditions of release which
 83 will reasonably assure that the person will
 84 not flee or pose a danger to any other person
 85 or the community; or

86
 87 (ii) The person is unlikely to abide
 88 by a condition or conditions of release.

89
 90 (2) If there is probable cause to believe
 91 that while on release, the person committed

92 under the laws of any other jurisdiction, a
93 rebuttable presumption arises that no
94 condition or combination of conditions will
95 assure the safety of any other person or the
96 community.

97
98 (3) The provisions of § 23-1322(d) and
99 (h) shall apply to this subsection.

100
101 (c) Contempt sanctions may be imposed if,
102 upon a hearing and in accordance with
103 principles applicable to proceedings for
104 criminal contempt, it is established that such
105 person has intentionally violated a condition
106 of his release. Such contempt proceedings
107 shall be expedited and heard by the court
108 without a jury. Any person found guilty of
109 criminal contempt for violation of a
110 condition of release shall be imprisoned for
111 not more than six months, or fined not more
112 than the amount set forth in [§ 22-3571.01],
113 or both. A judicial officer or a prosecutor
114 may initiate a proceeding for contempt
115 under this section.

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117 [. . .]

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138 a dangerous or violent crime, as defined by
139 § 23-1331, or a substantially similar offense
140 under the laws of any other jurisdiction, a
141 rebuttable presumption arises that no
142 condition or combination of conditions will
143 assure the safety of any other person or the
144 community.

145
146 (3) The provisions of § 23-1322(d) and
147 (h) shall apply to this subsection.

148
149 (c) Contempt sanctions may be imposed if,
150 upon a hearing and in accordance with
151 principles applicable to proceedings for
152 criminal contempt, it is established that such
153 person has intentionally violated a condition
154 of ~~his~~ his or her release. Such contempt
155 proceedings shall be expedited and heard by
156 the court without a jury. Any person found
157 guilty of criminal contempt for violation of a
158 condition of release shall be imprisoned for
159 not more than six months, or fined not more
160 than the amount set forth in [§ 22-3571.01],
161 or both. A judicial officer or a prosecutor
162 may initiate a proceeding for contempt
163 under this section.

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165 [. . .]

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1 **D.C. Code § 24-241.05. Suspension of**
2 **work release privilege; violations of work**
3 **release plan.**

4
5 (a) The Director of the Department of
6 Corrections may suspend or revoke the work
7 release privilege for any breach of discipline
8 or infraction of institution regulations. The
9 Court may revoke the work release privilege
10 at any time, either upon its own motion or
11 upon recommendation of the Director of the
12 Department of Corrections.

13
14 (b) Any prisoner who willfully fails to return
15 at the time and to the place of confinement
16 designated in his work release plan shall be
17 fined not more than \$ 1,000 or imprisoned
18 not more than 180 days, or both, such
19 sentence of imprisonment to run
20 consecutively with the remainder of
21 previously imposed sentences. All
22 prosecutions for violation of this subsection
23 shall be in the Superior Court of the District
24 of Columbia upon information filed by the
25 Corporation Counsel of the District of
26 Columbia or any of his assistants.

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47 **D.C. Code § 24-241.05. Suspension of**
48 **work release privilege; violations of work**
49 **release plan.**

50
51 (a) The Director of the Department of
52 Corrections may suspend or revoke the work
53 release privilege for any breach of discipline
54 or infraction of institution regulations. The
55 Court may revoke the work release privilege
56 at any time, either upon its own motion or
57 upon recommendation of the Director of the
58 Department of Corrections.

59
60 (b) Any prisoner who willfully fails to return
61 at the time and to the place of confinement
62 designated in ~~his~~ his or her work release
63 plan shall be fined not more than \$ 1,000 or
64 imprisoned not more than 180 days, or both,
65 such sentence of imprisonment to run
66 consecutively with the remainder of
67 previously imposed sentences. All
68 prosecutions for violation of this subsection
69 shall be in the Superior Court of the District
70 of Columbia upon information filed by the
71 ~~Corporation Counsel of~~ Attorney General
72 for the District of Columbia or any of ~~his~~ his
73 or her assistants.

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1 **D.C. Code § 25-1002. Purchase,**
2 **possession or consumption by persons**
3 **under 21; misrepresentation of age;**
4 **penalties.**

5
6 [...]

7
8 (c) [...] (2) In lieu of proceeding to trial
9 or disposition under paragraph (1) of this
10 subsection, the Mayor shall offer persons
11 who are arrested, or criminally charged by
12 information, for a first or second violation of
13 this section, the option of completing a
14 diversion program authorized and approved
15 by the Mayor. The Mayor shall determine
16 the content of the diversion program, which
17 may include community service and alcohol
18 awareness and education. If the person
19 rejects enrollment in, or fails to comply with
20 the requirements of, or fails to complete
21 within 6 months, the diversion program, he
22 or she may continue to be prosecuted in
23 accordance with paragraph (1) of this
24 section [subsection]. The Mayor, may, at his
25 discretion, decline to offer diversion to any
26 person who has previously been convicted
27 of, any felony, misdemeanor, or other
28 criminal offense.

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47 **D.C. Code § 25-1002. Purchase,**
48 **possession or consumption by persons**
49 **under 21; misrepresentation of age;**
50 **penalties.**

51
52 [...]

53
54 (c) [...] (2) In lieu of proceeding to trial
55 or disposition under paragraph (1) of this
56 subsection, the Mayor shall offer persons
57 who are arrested, or criminally charged by
58 information, for a first or second violation of
59 this section, the option of completing a
60 diversion program authorized and approved
61 by the Mayor. The Mayor shall determine
62 the content of the diversion program, which
63 may include community service and alcohol
64 awareness and education. If the person
65 rejects enrollment in, or fails to comply with
66 the requirements of, or fails to complete
67 within 6 months, the diversion program, he
68 or she may continue to be prosecuted in
69 accordance with paragraph (1) of this
70 section [subsection]. The Mayor, may, at ~~his~~
71 his or her discretion, decline to offer
72 diversion to any person who has previously
73 been convicted of, any felony, misdemeanor,
74 or other criminal offense.

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1 **D.C. Code § 47-2828. Classification of**
2 **buildings containing living quarters for**
3 **licenses; fees; buildings exempt from**
4 **license requirement.**

5
6 (a) The Council of the District of Columbia
7 is authorized and empowered to classify,
8 according to use, method of operation, and
9 size, buildings containing living or lodging
10 quarters of every description, to require
11 licenses for the business operated in each
12 such building as in its judgment requires
13 inspection, supervision or regulation by any
14 municipal agency or agencies, and the
15 Mayor of the District of Columbia is
16 authorized and empowered to fix a schedule
17 of license fees therefor in such amount as, in
18 his judgment, will be commensurate with
19 the cost to the District of Columbia of such
20 inspection, supervision or regulation:
21 owners of residential buildings in which one
22 or more dwelling units or rooming units are
23 offered for rent or lease shall obtain from the
24 Mayor a license to operate such business.

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26 [. . .]
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47 **D.C. Code § 47-2828. Classification of**
48 **buildings containing living quarters for**
49 **licenses; fees; buildings exempt from**
50 **license requirement.**

51
52 (a) The Council of the District of Columbia
53 is authorized and empowered to classify,
54 according to use, method of operation, and
55 size, buildings containing living or lodging
56 quarters of every description, to require
57 licenses for the business operated in each
58 such building as in its judgment requires
59 inspection, supervision or regulation by any
60 municipal agency or agencies, and the
61 Mayor of the District of Columbia is
62 authorized and empowered to fix a schedule
63 of license fees therefor in such amount as, in
64 ~~his~~ his or her judgment, will be
65 commensurate with the cost to the District
66 of Columbia of such inspection, supervision
67 or regulation: owners of residential
68 buildings in which one or more dwelling
69 units or rooming units are offered for rent or
70 lease shall obtain from the Mayor a license
71 to operate such business.

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1 **D.C. Code § 47-2829. Vehicles for hire;**
 2 **identification tags on vehicles; vehicles for**
 3 **school children; ambulances, private**
 4 **vehicles for funeral purposes; issuance of**
 5 **licenses; payment of fees.**

6
 7 [. . .]

8
 9 (b) Any person, partnership, association,
 10 trust, or corporation operating or proposing
 11 to operate any vehicle or vehicles not
 12 confined to rails or tracks for the
 13 transportation of passengers for hire over all
 14 or any portion of any defined route or routes
 15 in the District of Columbia, shall, on or
 16 before the first day of October in each year,
 17 or before commencing such operation,
 18 submit to the Mayor, in triplicate, an
 19 application for license, stating therein the
 20 name of such person, partnership,
 21 association, trust, or corporation, the number
 22 and kind of each type of vehicle to be used
 23 in such operation, the schedule or schedules
 24 and the total number of vehicle miles to be
 25 operated with such vehicles within the
 26 District of Columbia during the 12-month
 27 period beginning with the first day of
 28 November in the same year; provided, that
 29 the provisions of this subsection shall not
 30 apply to companies operating both street
 31 railroad and bus services in the District of
 32 Columbia which pay taxes to the District of
 33 Columbia on their gross receipts; provided,
 34 that the provisions of this subsection shall
 35 not apply to the Washington Metropolitan
 36 Area Transit Authority. The Mayor shall
 37 thereupon verify and approve, or return to
 38 the applicant for correction and
 39 resubmission, each such statement. Upon
 40 receipt of the approved copy, and prior to
 41 the first day of November in the same year,
 42 or before commencing such operation, each
 43 such applicant shall pay to the Collector of
 44 Taxes, in lieu of any other personal or
 45 license tax, in connection with such
 46 operation, the sum of \$.01 for each vehicle

47 **D.C. Code § 47-2829. Vehicles for hire;**
 48 **identification tags on vehicles; vehicles for**
 49 **school children; ambulances, private**
 50 **vehicles for funeral purposes; issuance of**
 51 **licenses; payment of fees.**

52
 53 [. . .]

54
 55 (b) Any person, partnership, association,
 56 trust, or corporation operating or proposing
 57 to operate any vehicle or vehicles not
 58 confined to rails or tracks for the
 59 transportation of passengers for hire over all
 60 or any portion of any defined route or routes
 61 in the District of Columbia, shall, on or
 62 before the first day of October in each year,
 63 or before commencing such operation,
 64 submit to the Mayor, in triplicate, an
 65 application for license, stating therein the
 66 name of such person, partnership,
 67 association, trust, or corporation, the number
 68 and kind of each type of vehicle to be used
 69 in such operation, the schedule or schedules
 70 and the total number of vehicle miles to be
 71 operated with such vehicles within the
 72 District of Columbia during the 12-month
 73 period beginning with the first day of
 74 November in the same year; provided, that
 75 the provisions of this subsection shall not
 76 apply to companies operating both street
 77 railroad and bus services in the District of
 78 Columbia which pay taxes to the District of
 79 Columbia on their gross receipts; provided,
 80 that the provisions of this subsection shall
 81 not apply to the Washington Metropolitan
 82 Area Transit Authority. The Mayor shall
 83 thereupon verify and approve, or return to
 84 the applicant for correction and
 85 resubmission, each such statement. Upon
 86 receipt of the approved copy, and prior to
 87 the first day of November in the same year,
 88 or before commencing such operation, each
 89 such applicant shall pay to the ~~Collector of~~
 90 Taxes Office of Tax and Revenue, in lieu of
 91 any other personal or license tax, in

93 mile proposed to be operated in the District
 94 of Columbia in accordance with the
 95 application as approved. Upon presentation
 96 of the receipt for such payment, the Mayor
 97 of the District of Columbia or his designated
 98 agent shall issue a license authorizing the
 99 applicant to carry on the operations
 100 embodied in the approved application. No
 101 increase of operations shall be commenced
 102 or continued unless and until an application
 103 similar to the original and covering such
 104 increase in operation shall have been
 105 approved and forwarded in the same manner
 106 and the corresponding additional payment
 107 made and license issued. No license shall be
 108 issued under the terms of this subsection
 109 without the approval of the Mayor.

110
 111 [. . .]

112
 113 (i) No person shall engage in driving or
 114 operating any vehicle licensed under the
 115 terms of subsection (h) of this section
 116 without having procured from the Mayor of
 117 the District of Columbia or his designated
 118 agent a license which shall only be issued
 119 upon evidence satisfactory to the Mayor of
 120 the District of Columbia, that the applicant
 121 is a person of good moral character and is
 122 qualified to operate such vehicle, and upon
 123 payment of an annual license fee of an
 124 amount set by the Mayor. Such license shall
 125 be carried upon the person of the licensee or
 126 in the vehicle while engaged in driving such
 127 vehicle when such vehicle is being used for
 128 hire. Application for such license shall be
 129 made in such form as shall be prescribed by
 130 the Mayor of the District of Columbia. Each
 131 annual license issued under the provisions of
 132 this paragraph shall be numbered, and there
 133 shall be kept in the Office of Taxicabs a
 134 record containing the name of each person
 135 so licensed, his annual license number and
 136 all matters affecting his qualifications to be
 137 licensed hereunder. No license issued under
 138

139 connection with such operation, the sum of
 140 \$.01 for each vehicle mile proposed to be
 141 operated in the District of Columbia in
 142 accordance with the application as approved.
 143 Upon presentation of the receipt for such
 144 payment, the Mayor of the District of
 145 Columbia or ~~his~~ his or her designated agent
 146 shall issue a license authorizing the
 147 applicant to carry on the operations
 148 embodied in the approved application. No
 149 increase of operations shall be commenced
 150 or continued unless and until an application
 151 similar to the original and covering such
 152 increase in operation shall have been
 153 approved and forwarded in the same manner
 154 and the corresponding additional payment
 155 made and license issued. No license shall be
 156 issued under the terms of this subsection
 157 without the approval of the Mayor.

158
 159 [. . .]

160
 161 (i) No person shall engage in driving or
 162 operating any vehicle licensed under the
 163 terms of subsection (h) of this section
 164 without having procured from the Mayor of
 165 the District of Columbia or ~~his~~ his or her
 166 designated agent a license which shall only
 167 be issued upon evidence satisfactory to the
 168 Mayor of the District of Columbia, that the
 169 applicant is a person of good moral
 170 character and is qualified to operate such
 171 vehicle, and upon payment of an annual
 172 license fee of an amount set by the Mayor.
 173 Such license shall be carried upon the
 174 person of the licensee or in the vehicle while
 175 engaged in driving such vehicle when such
 176 vehicle is being used for hire. Application
 177 for such license shall be made in such form
 178 as shall be prescribed by the Mayor of the
 179 District of Columbia. Each annual license
 180 issued under the provisions of this paragraph
 181 shall be numbered, and there shall be kept in
 182 the Office of Taxicabs a record containing
 183 the name of each person so licensed, ~~his~~ his
 184 or her annual license number and all matters

CURRENT STATUTE

PROPOSED STATUTE

185 the provisions of this subsection shall be
186 assigned or transferred.
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231 affecting ~~his~~ his or her qualifications to be
232 licensed hereunder. No license issued under
233 the provisions of this subsection shall be
234 assigned or transferred.
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1 **D.C. Code § 48-904.01. Prohibited acts**
2 **A; penalties.**

3
4 [. . .]

5
6 (e) [. . .] (2) Upon the dismissal of such
7 person and discharge of the proceedings
8 against him under paragraph (1) of this
9 subsection, such person may apply to the
10 court for an order to expunge from all
11 official records (other than the nonpublic
12 records to be retained under paragraph (1) of
13 this subsection) all recordation relating to
14 his or her arrest, indictment or information,
15 trial, finding of guilty, and dismissal and
16 discharge pursuant to this subsection. If the
17 court determines, after hearing, that such
18 person was dismissed and the proceedings
19 against him or her discharged, it shall enter
20 such order. The effect of such order shall be
21 to restore such person, in the contemplation
22 of this law, to the status he or she occupied
23 before such arrest or indictment or
24 information. No person as to whom such
25 order has been entered shall be held
26 thereafter under any provision of any law to
27 be guilty of perjury or otherwise giving a
28 false statement by reason of failure to recite
29 or acknowledge such arrest, or indictment,
30 or trial in response to any inquiry made of
31 him or her for any purpose.

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33 [. . .]

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47 **D.C. Code § 48-904.01. Prohibited acts**
48 **A; penalties.**

49
50 [. . .]

51
52 (e) [. . .] (2) Upon the dismissal of such
53 person and discharge of the proceedings
54 against ~~him~~ **him or her** under paragraph (1)
55 of this subsection, such person may apply to
56 the court for an order to expunge from all
57 official records (other than the nonpublic
58 records to be retained under paragraph (1) of
59 this subsection) all recordation relating to
60 his or her arrest, indictment or information,
61 trial, finding of guilty, and dismissal and
62 discharge pursuant to this subsection. If the
63 court determines, after hearing, that such
64 person was dismissed and the proceedings
65 against him or her discharged, it shall enter
66 such order. The effect of such order shall be
67 to restore such person, in the contemplation
68 of this law, to the status he or she occupied
69 before such arrest or indictment or
70 information. No person as to whom such
71 order has been entered shall be held
72 thereafter under any provision of any law to
73 be guilty of perjury or otherwise giving a
74 false statement by reason of failure to recite
75 or acknowledge such arrest, or indictment,
76 or trial in response to any inquiry made of
77 him or her for any purpose.

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79 [. . .]

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1 **D.C. Code § 50-405. Penalties.**

2
3 (a) If the Mayor has reason to believe that a
4 person has violated any of the requirements
5 in § 50-403 or § 50-404, the alleged
6 violation shall be enforced in accordance
7 with Chapter 23 of this title, and rules issued
8 by the Mayor pursuant to § 50-409. Any
9 person who is determined by the Mayor,
10 after notice and opportunity to be heard, to
11 have violated § 50-403 or § 50-404, shall be
12 liable to the District for a civil fine of not
13 less than \$ 100 nor more than \$ 1000 for the
14 first violation, of not less than \$ 500 nor
15 more than \$ 2000 for the second violation,
16 or of not less than \$ 1000 nor more than \$
17 5000 for the third or a subsequent violation.

18
19 (b) (1) As an alternative sanction, any
20 person who knowingly or willfully violates
21 § 50-403 or § 50-404 shall be guilty of an
22 offense and, upon conviction, may be:

23
24 (A) Fined not less than \$ 100 and not
25 more than the amount set forth in § 22-
26 3571.01, imprisoned for not more than 6
27 months, or both, for the first violation;

28
29 (B) Fined not less than \$ 500 and not
30 more than the amount set forth in § 22-
31 3571.01, imprisoned not less than 6 months
32 nor more than 9 months, or both, for the
33 second violation; or

34
35 (C) Fined not less than \$ 1000 and not
36 more than the amount set forth in § 22-
37 3571.01, imprisoned for not less than 9
38 months nor more than 1 year, or both, for
39 the third or a subsequent violation.

40
41 (2) Prosecutions for violations of this
42 subsection shall be brought by the
43 Corporation Counsel.

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47 **D.C. Code § 50-405. Penalties.**

48
49 (a) If the Mayor has reason to believe that a
50 person has violated any of the requirements
51 in § 50-403 or § 50-404, the alleged
52 violation shall be enforced in accordance
53 with Chapter 23 of this title, and rules issued
54 by the Mayor pursuant to § 50-409. Any
55 person who is determined by the Mayor,
56 after notice and opportunity to be heard, to
57 have violated § 50-403 or § 50-404, shall be
58 liable to the District for a civil fine of not
59 less than \$ 100 nor more than \$ 1000 for the
60 first violation, of not less than \$ 500 nor
61 more than \$ 2000 for the second violation,
62 or of not less than \$ 1000 nor more than \$
63 5000 for the third or a subsequent violation.

64
65 (b) (1) As an alternative sanction, any
66 person who knowingly or willfully violates
67 § 50-403 or § 50-404 shall be guilty of an
68 offense and, upon conviction, may be:

69
70 (A) Fined not less than \$ 100 and not
71 more than the amount set forth in § 22-
72 3571.01, imprisoned for not more than 6
73 months, or both, for the first violation;

74
75 (B) Fined not less than \$ 500 and not
76 more than the amount set forth in § 22-
77 3571.01, imprisoned not less than 6 months
78 nor more than 9 months, or both, for the
79 second violation; or

80
81 (C) Fined not less than \$ 1000 and not
82 more than the amount set forth in § 22-
83 3571.01, imprisoned for not less than 9
84 months nor more than 1 year, or both, for
85 the third or a subsequent violation.

86
87 (2) Prosecutions for violations of this
88 subsection shall be brought by the
89 ~~Corporation Counsel~~ Attorney General for
90 the District of Columbia.

91
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1 D.C. Code § 50-1401.01. Fee;
2 examination; age requirements; lost
3 permits; provisions for armed forces
4 personnel; contents; operation without
5 permit prohibited; restrictions for
6 minors.

7
8 (a) [. . .] (3) Any pupil 15 years of age or
9 over enrolled in a high school or junior high
10 school driver education and training course
11 approved by the Mayor or his designated
12 agent may, without obtaining either an
13 operator's or a learner's permit, operate a
14 dual control motor vehicle between the
15 hours of 6 a.m. and 11 p.m., where the pupil
16 is under instruction and accompanied by a
17 licensed motor vehicle driving instructor;
18 provided, that such instructor shall at all
19 times while he is engaged in such instruction
20 have on his person a certificate from the
21 principal or other person in charge of such
22 school, stating that such instructor is
23 officially designated to instruct pupils
24 enrolled in such course, and whenever
25 demand is made by a police officer such
26 instructor shall display to him such
27 certificate.

28
29 [. . .]

30
31 (6) Notwithstanding the provisions of this
32 subsection, the Mayor or his designated
33 agent may, upon compliance with such
34 regulations as the Mayor may prescribe,
35 extend for a period not in excess of 6 years
36 the validity of the operator's permit of any
37 person who is a resident of the District and
38 who is on active duty outside the District in
39 the armed forces or the Merchant Marine of
40 the United States and who was at the time of
41 leaving the District the holder of a valid
42 operator's permit.

43
44 [. . .]

45

46 D.C. Code § 50-1401.01. Fee;
47 examination; age requirements; lost
48 permits; provisions for armed forces
49 personnel; contents; operation without
50 permit prohibited; restrictions for
51 minors.

52
53 (a) [. . .] (3) Any pupil 15 years of age or
54 over enrolled in a high school or junior high
55 school driver education and training course
56 approved by the Mayor or ~~his~~ his or her
57 designated agent may, without obtaining
58 either an operator's or a learner's permit,
59 operate a dual control motor vehicle
60 between the hours of 6 a.m. and 11 p.m.,
61 where the pupil is under instruction and
62 accompanied by a licensed motor vehicle
63 driving instructor; provided, that such
64 instructor shall at all times while ~~he~~ he or
65 she is engaged in such instruction have on
66 ~~his~~ his or her person a certificate from the
67 principal or other person in charge of such
68 school, stating that such instructor is
69 officially designated to instruct pupils
70 enrolled in such course, and whenever
71 demand is made by a police officer such
72 instructor shall display to ~~him~~ him or her
73 such certificate.

74
75 [. . .]

76
77 (6) Notwithstanding the provisions of this
78 subsection, the Mayor or ~~his~~ his or her
79 designated agent may, upon compliance
80 with such regulations as the Mayor may
81 prescribe, extend for a period not in excess
82 of 6 years the validity of the operator's
83 permit of any person who is a resident of the
84 District and who is on active duty outside
85 the District in the armed forces or the
86 Merchant Marine of the United States and
87 who was at the time of leaving the District
88 the holder of a valid operator's permit.

89
90 [. . .]

1 **D.C. Code § 50-2201.05b. Fleeing from a**
2 **law enforcement officer in a motor**
3 **vehicle.**

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5 [...]
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7 (d) (1) The Mayor or his designee, pursuant
8 to § 50-1403.01, may suspend the operating
9 permit of a person convicted under
10 subsection (b)(1) of this section for a period
11 of not more than 180 days and may suspend
12 the operating permit of a person convicted
13 under subsection (b)(2) of this section for a
14 period of not more than 1 year.

15
16 (2) A suspension of an operator's permit
17 under paragraph (1) of this subsection for a
18 person who has been sentenced to a term of
19 imprisonment for a violation of subsection
20 (b)(1) or (2) of this section shall begin
21 following the person's release from
22 incarceration.

23
24 (e) Prosecution for violations under this
25 section shall be conducted in the name of the
26 District of Columbia by the Attorney
27 General for the District of Columbia, or his
28 or her assistants, in the Superior Court of the
29 District of Columbia.

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47 **D.C. Code § 50-2201.05b. Fleeing from a**
48 **law enforcement officer in a motor**
49 **vehicle.**

50
51 [...]
52

53 (d) (1) The Mayor or his ~~his~~ **his or her**
54 designee, pursuant to § 50-1403.01, may
55 suspend the operating permit of a person
56 convicted under subsection (b)(1) of this
57 section for a period of not more than 180
58 days and may suspend the operating permit
59 of a person convicted under subsection
60 (b)(2) of this section for a period of not
61 more than 1 year.

62
63 (2) A suspension of an operator's permit
64 under paragraph (1) of this subsection for a
65 person who has been sentenced to a term of
66 imprisonment for a violation of subsection
67 (b)(1) or (2) of this section shall begin
68 following the person's release from
69 incarceration.

70
71 ~~(e) Prosecution for violations under this~~
72 ~~section shall be conducted in the name of the~~
73 ~~District of Columbia by the Attorney~~
74 ~~General for the District of Columbia, or his~~
75 ~~or her assistants, in the Superior Court of the~~
76 ~~District of Columbia.~~

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1 **D.C. Code § 50-2421.04. Removal of**
2 **abandoned and dangerous vehicles from**
3 **public space; penalties.**

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[...]

(e) Any person violating the provisions of subsection (d) of this section, shall be prosecuted by the Office of the Corporation Counsel, and shall be punished by a fine of not more than the amount set forth in § 22-3571.01, imprisonment of not more than 90 days, or both.

46 **D.C. Code § 50-2421.04. Removal of**
47 **abandoned and dangerous vehicles from**
48 **public space; penalties.**

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[...]

(e) Any person violating the provisions of subsection (d) of this section, shall be prosecuted by the Office of the ~~Corporation Counsel~~ Attorney General for the District of Columbia, and shall be punished by a fine of not more than the amount set forth in § 22-3571.01, imprisonment of not more than 90 days, or both.

APPENDIX III: UNCONSTITUTIONAL STATUTES LIST & TEXT

Note: All statute texts are taken from the online LexisNexis District of Columbia Official Code. The texts in the Official Code are current through April 5, 2016.

The Criminal Code Reform Commission has identified two current D.C. Code offenses as unconstitutional, and both are recommended for amendment: D.C. Code § 7-2506.01, Unlawful Possession of Ammunition (UA), and D.C. Code § 22-4512, Alteration of Identifying Marks of Weapons (AIM).¹ The charts on the following pages contain side-by-side comparisons of the current and revised statutes. Unlike the legislation in titles 1 and 3 of the bill in Appendix IX, which contain only the new language, the charts show the additions and deletions to the statutes.

¹ The Sentencing Commission previously gave the Council notice of the unconstitutionality of D.C. Code § 22-2511, Presence in a Motor Vehicle Containing a Firearm (PMVCF), in its 2013 Annual Report. *See D.C. Sentencing and Criminal Code Revision Commission 2013 Annual Report*, at 84-85 (April 25, 2014). The Council has since repealed the PMVCF statute. *See License to Carry a Pistol Amendment Act of 2014, Act No. 20-621 (D.C. Law 20-279)*, effective June 16, 2015.

Current D.C. Code § 7-2506.01. (UA)

1 (a) No person shall possess ammunition in
2 the District of Columbia unless:
3
4 (1) He is a licensed dealer pursuant to
5 subchapter IV of this unit;
6 (2) He is an officer, agent, or employee of
7 the District of Columbia or the United States
8 of America, on duty and acting within the
9 scope of his duties when possessing such
10 ammunition;
11 (3) He is the holder of a valid registration
12 certificate for a firearm pursuant to
13 subchapter II of this chapter; except, that no
14 such person shall possess one or more
15 restricted pistol bullets;
16 (4) He holds an ammunition collector's
17 certificate on September 24, 1976; or
18 (5) He temporarily possesses ammunition
19 while participating in a firearms training and
20 safety class conducted by a firearms
21 instructor.
22
23 (b) No person in the District shall possess,
24 sell, or transfer any large capacity
25 ammunition feeding device regardless of
26 whether the device is attached to a firearm.
27 For the purposes of this subsection, the term
28 "large capacity ammunition feeding device"
29 means a magazine, belt, drum, feed strip, or
30 similar device that has a capacity of, or that
31 can be readily restored or converted to
32 accept, more than 10 rounds of ammunition.
33 The term "large capacity ammunition
34 feeding device" shall not include an attached
35 tubular device designed to accept, and
36 capable of operating only with, .22 caliber
37 rimfire ammunition.
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Revised D.C. Code § 7-2506.01. (UA)

44 ~~(a) No person in the District shall possess,~~
45 ~~sell, or transfer any large capacity~~
46 ~~ammunition feeding device regardless of~~
47 ~~whether the device is attached to a firearm.~~
48 *Definitions.* For the purposes of this
49 ~~subsection~~ section, the term "large capacity
50 ammunition feeding device" means a
51 magazine, belt, drum, feed strip, or similar
52 device that has a capacity of, or that can be
53 readily restored or converted to accept, more
54 than 10 rounds of ammunition. The term
55 "large capacity ammunition feeding device"
56 shall not include an attached tubular device
57 designed to accept, and capable of operating
58 only with, .22 caliber rimfire ammunition.
59
60 (b) *Offense.* ~~No person shall possess~~ A
61 person commits the crime of unlawful
62 possession of ammunition in the District of
63 Columbia when that person:
64
65 (1) Possesses ammunition, and that person
66 has not lawfully registered a firearm of the
67 same caliber or gauge of ammunition
68 pursuant to subchapter IV of this unit;
69 (2) Possesses one or more restricted pistol
70 bullets as defined in § 7-2501.01(13A)(A);
71 or
72 (3) Possesses, sells, or transfers any large
73 capacity ammunition feeding device
74 regardless of whether the device is attached
75 to a firearm.
76
77 ~~(b) (c) Affirmative Defense.~~ unless It is an
78 affirmative defense to the crime of unlawful
79 possession of ammunition for subsections
80 (b)(1) and (b)(2) that the person charged:
81
82 (1) ~~He~~ Is a licensed dealer pursuant to
83 subchapter IV of this unit;
84
85 ~~(2) He~~ Is an officer, agent, or employee of
86 the District of Columbia or the United
87

88 [Column intentionally left blank.] 134 States of America, and was on duty and
89 135 acting within the scope of ~~his~~ his or her
90 136 duties when ~~possessing~~ that person
91 137 possessed such ammunition;
92 138 ~~(3) He is the holder of a valid registration~~
93 139 ~~certificate for a firearm pursuant to~~
94 140 ~~subchapter II of this chapter; except, that no~~
95 141 ~~such person shall possess one or more~~
96 142 ~~restricted pistol bullets;~~
97 143 ~~(4) He~~ (3) Holds an ammunition collector's
98 144 certificate on September 24, 1976; or
99 145 ~~(5) He~~ (4) Temporarily possesses possessed
100 146 ammunition while participating in a firearms
101 147 training and safety class conducted by a
102 148 firearms instructor.
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1 **Current D.C. Code § 22-4512. (AIM)**
2
3 No person shall within the District of
4 Columbia change, alter, remove, or
5 obliterate the name of the maker, model,
6 manufacturer's number, or other mark or
7 identification on any pistol, machine gun, or
8 sawed-off shotgun. Possession of any pistol,
9 machine gun, or sawed-off shotgun upon
10 which any such mark shall have been
11 changed, altered, removed, or obliterated
12 shall be prima facie evidence that the
13 possessor has changed, altered, removed, or
14 obliterated the same within the District of
15 Columbia; provided, however, that nothing
16 contained in this section shall apply to any
17 officer or agent of any of the departments of
18 the United States or the District of Columbia
19 engaged in experimental work.
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50 **Revised D.C. Code § 22-4512. (AIM)**
51
52 No person shall within the District of
53 Columbia change, alter, remove, or
54 obliterate the name of the maker, model,
55 manufacturer's number, or other mark or
56 identification on any pistol, machine gun, or
57 sawed-off shotgun. ~~Possession of any pistol,~~
58 ~~machine gun, or sawed off shotgun upon~~
59 ~~which any such mark shall have been~~
60 ~~changed, altered, removed, or obliterated~~
61 ~~shall be prima facie evidence that the~~
62 ~~possessor has changed, altered, removed, or~~
63 ~~obliterated the same within the District of~~
64 ~~Columbia; provided, however, that nothing~~
65 **Nothing** contained in this section shall apply
66 to any officer or agent of any of the
67 departments of the United States or the
68 District of Columbia engaged in
69 experimental work.
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APPENDIX IV: COMMON LAW OFFENSES LIST & TEXT

Note: All statute texts are taken from the online LexisNexis District of Columbia Official Code. The texts in the Official Code are current through April 5, 2016.

Part 1: Common Law Offenses that Will be Repealed with the Amendment of the Reception Statute, D.C. Code § 45-401.

Being a Common Scold

“The defendant has been convicted upon the second count of this indictment, which is in the following words: ‘And the jurors aforesaid, upon their oath aforesaid, do further present that the said Ann Royall, being an evil disposed person as aforesaid, and a common scold and disturber of the peace of her honest and quiet neighbors, on the first day of June, in the year of our Lord one thousand eight hundred and twenty-nine, as aforesaid, at the county of Washington aforesaid, and on divers other days and times, as well before as after, was and yet is a common scold, and disturber of the peace and happiness of her quiet and honest neighbors residing in the county aforesaid[.]’”

United States v. Royall, 27 F. Cas. 906, 908 (C.C.D.D.C. 1829)

Disturbing Public Worship

“The principles upon which the disturbance of public worship becomes an offence at common law are these: Every man has a perfect right to worship God in the manner most conformable to the dictates of his conscience, and to assemble and unite with others in the same act of worship, so that he does not interfere with the equal rights of others. The common law protects this right, either by giving the party his private action for damages on account of the injury he has sustained; or if the violation of the right be directly, or consequentially injurious to society, by a public prosecution.”

United States v. Brooks, 24 F. Cas. 1244, 1245 (C.C.D.D.C. 1834).

Negligent Escape

“A negligent escape is when the party arrested or imprisoned doth escape against the will of him that arrested or imprisoned him, and is not freshly pursued and taken again, before he hath lost the sight of him.”

United States v. Davis, 167 F.2d 228, 229 (D.C. Cir. 1948).

Part 2: Common Law Offenses with Only a Penalty Codified in the D.C. Code.

D.C. Code § 11-944. Contempt.

(a) Subject to the limitation described in subsection (b), and in addition to the powers conferred by section 402 of title 18, United States Code, the Superior Court, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

(b) (1) In any proceeding for custody of a minor child conducted in the Family Division of the Superior Court under paragraph (1) or (4) of section 11-1101, no individual may be imprisoned for civil contempt for more than 12 months (except as provided in paragraph (2)), pursuant to the contempt power described in subsection (a), for disobedience of an order or for contempt committed in the presence of the court. This limitation does not apply to imprisonment for criminal contempt or for any other criminal violation.

(2) Notwithstanding the provisions of paragraph (1), an individual who is charged with criminal contempt pursuant to paragraph (3) may continue to be imprisoned for civil contempt until the completion of such individual's trial for criminal contempt, except that in no case may such an individual be imprisoned for more than 18 consecutive months for civil contempt pursuant to the contempt power described in subsection (a).

(3) (A) An individual imprisoned for 6 consecutive months for civil contempt for disobedience of an order in a proceeding described in paragraph (1) who continues to disobey such order may be prosecuted for criminal contempt for disobedience of such order at any time before the expiration of the 12-month period that begins on the first day of such individual's imprisonment, except that an individual so imprisoned as of the date of the enactment of this subsection may be prosecuted under this subsection at any time during the 90-day period that begins on the date of the enactment of this subsection.

(B) The trial of an individual prosecuted for criminal contempt pursuant to this paragraph --

(i) shall begin not later than 90 days after the date on which such individual is charged with criminal contempt;

(ii) shall, upon the request of the individual, be a trial by jury; and

(iii) may not be conducted before the judge who imprisoned the individual for disobedience of an order pursuant to subsection (a).

D.C. Code § 22-401. Assault with intent to kill, rob, or poison or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse.

Every person convicted of any assault with intent to kill or to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse, or to commit robbery, or mingling poison with food, drink, or medicine with intent to kill, or wilfully poisoning any well, spring, or cistern of water, shall be sentenced to imprisonment for not less than 2 years or more than 15 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

D.C. Code §22-402. Assault with intent to commit mayhem or with a dangerous weapon.

Every person convicted of an assault with intent to commit mayhem, or of an assault with a dangerous weapon, shall be sentenced to imprisonment for not more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

D.C. Code §22-403. Assault with intent to commit any other offense.

Whoever assaults another with intent to commit any other offense which may be punished by imprisonment in the penitentiary shall be imprisoned not more than 5 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

D.C. Code § 22-404. Assault or threatened assault in a menacing manner; stalking.

(a) (1) Whoever unlawfully assaults, or threatens another in a menacing manner, shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 180 days, or both.

(2) Whoever unlawfully assaults, or threatens another in a menacing manner, and intentionally, knowingly, or recklessly causes significant bodily injury to another shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 3 years, or both. For the purposes of this paragraph, the term "significant bodily injury" means an injury that requires hospitalization or immediate medical attention.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(e) Repealed.

D.C. Code §22-406. Mayhem or malicious disfiguring.

Every person convicted of mayhem or of maliciously disfiguring another shall be imprisoned for not more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

D.C. Code § 22-407. Threats to do bodily harm.

Whoever is convicted in the District of threats to do bodily harm shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 6 months, or both, and, in addition thereto, or in lieu thereof, may be required to give bond to keep the peace for a period not exceeding 1 year.

D.C. Code § 22-1301. Affrays.

Whoever is convicted of an affray in the District shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

D.C. Code § 22-1803. Attempts to commit a crime.

Whoever shall attempt to commit any crime, which attempt is not otherwise made punishable by chapter 19 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321), shall be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 180 days, or both. Except, whoever shall attempt to commit a crime of violence as defined in § 23-1331 shall be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 5 years, or both.

D.C. Code § 22-1805. Aiding and abetting.

In prosecutions for any criminal offense all persons advising, inciting, or conniving at the offense, or aiding or abetting the principal offender, shall be charged as principals and not as accessories, the intent of this section being that as to all accessories before the fact the law heretofore applicable in cases of misdemeanor only shall apply to all crimes, whatever the punishment may be.

D.C. Code § 22-1805a. Conspiracy.

(a) (1) If 2 or more persons conspire either to commit a criminal offense or to defraud the District of Columbia or any court or agency thereof in any manner or for any purpose, each shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both, except that if the object of the conspiracy is a criminal offense punishable by less than 5 years, the maximum

penalty for the conspiracy shall not exceed the maximum penalty provided for that offense.

(2) If 2 or more persons conspire to commit a crime of violence as defined in § 22-1331(4), each shall be fined not more than the amount set forth in § 22-3571.01 nor the maximum fine prescribed for the offense, the commission of which was the object of the conspiracy, whichever is less, or imprisoned not more than 15 years nor the maximum imprisonment prescribed for the offense, the commission of which was the object of the conspiracy, whichever is less, or both.

(b) No person may be convicted of conspiracy unless an overt act is alleged and proved to have been committed by 1 of the conspirators pursuant to the conspiracy and to effect its purpose.

(c) When the object of a conspiracy contrived within the District of Columbia is to engage in conduct in a jurisdiction outside the District of Columbia which would constitute a criminal offense under an act of Congress applicable exclusively to the District of Columbia if performed therein, the conspiracy is a violation of this section if:

(1) Such conduct would also constitute a crime under the laws of the other jurisdiction if performed therein; or

(2) Such conduct would constitute a criminal offense under an act of Congress exclusively applicable to the District of Columbia even if performed outside the District of Columbia.

(d) A conspiracy contrived in another jurisdiction to engage in conduct within the District of Columbia which would constitute a criminal offense under an act of Congress exclusively applicable to the District of Columbia if performed within the District of Columbia is a violation of this section when an overt act pursuant to the conspiracy is committed within the District of Columbia. Under such circumstances, it is immaterial and no defense to a prosecution for conspiracy that the conduct which is the object of the conspiracy would not constitute a crime under the laws of the other jurisdiction.

D.C. Code § 22-1806. Accessories after the fact.

Whoever shall be convicted of being an accessory after the fact to any crime punishable by death shall be punished by imprisonment for not more than 20 years. Whoever shall be convicted of being accessory after the fact to any crime punishable by imprisonment shall be punished by a fine or imprisonment, or both, as the case may be, not more than 1/2 the maximum fine or imprisonment, or both, to which the principal offender may be subjected.

D.C. Code § 22-2105. Manslaughter.

Whoever is guilty of manslaughter shall be sentenced to a period of imprisonment not exceeding 30 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

D.C. Code § 22-2107. Solicitation of murder or other crimes of violence.

(a) Whoever is guilty of soliciting a murder, whether or not such murder occurs, shall be sentenced to a period of imprisonment not exceeding 20 years, a fine not more than the amount set forth in § 22-3571.01, or both.

(b) Whoever is guilty of soliciting a crime of violence as defined by § 23-1331(4), whether or not such crime occurs, shall be sentenced to a period of imprisonment not exceeding 10 years, a fine of not more than the amount set forth in § 22-3571.01, or both.

D.C. Code § 22-2722. Keeping bawdy or disorderly houses.

Whoever is convicted of keeping a bawdy or disorderly house in the District shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both.

D.C. Code § 48-904.09. Attempt, conspiracy (Note that this is a different offense than general attempt in § 22-1803).

Any person who attempts or conspires to commit any offense defined in this subchapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

APPENDIX V: RELOCATION OF TITLE 22 PROVISIONS LIST & TEXT

Note: All statute texts are taken from the online LexisNexis District of Columbia Official Code. The texts in the Official Code are current through April 5, 2016.

The chart on the following pages lists all the statutes in Title 22 that are being relocated from Title 22, and for several of the statutes, a recommended title for the relocation. It is the responsibility of the Council's Office of the General Counsel to determine where to place all relocated statutes.

However, the Criminal Code Reform Commission notes that conforming amendments will be necessary in many titles of the D.C. Official Code to adjust to the relocation of these statutes from Title 22. First, any statutes that are relocated to an enacted title may require new legislation to so relocate them. Second, some relocated statutes may be dependent on definitions or other sections that will remain in Title 22. In order to ensure definitions continue to apply to these relocated statutes, conforming amendments to the relocated statutes will be necessary.

Additionally, as was noted in the Report accompanying these appendices, before the proposed enactment legislation in title 1 of the bill in Appendix IX can be passed, the following statutes in Title 22 will need to be amended:

1. D.C. Code § 22-2701.01: Refers to §§ 22-2713 through 22-2720.
2. D.C. Code § 22-1831: Refers to §§ 22-2713 through 22-2720.
3. D.C. Code § 22-1839: Refers to § 22-3022(b).
4. D.C. Code § 22-3226.06: Refers to § 22-3226.09.
5. D.C. Code § 22-4134: Contains terms that are defined in § 22-4131.
6. D.C. Code § 22-4015: Refers generally to the requirements in the "chapter," which is otherwise being relocated.
- 6.7. D.C. Code § 22-4329: Refers generally to the provisions and authority of this "chapter," which is otherwise being relocated.
- 7.8. D.C. Code § 22-4331: Refers generally to the requirements in the "chapter," which is otherwise being relocated.

The Criminal Code Reform Commission recommends that the Office of the General Counsel check for other conforming amendments that may be necessary in Title 22. The chart of the relocated statutes from Title 22 begins on the next page.

Part 1: Chart: Statutes Being Relocated from Title 22.

Code Section & Offense Name	Recommendation for Relocation Outside of Title 22
D.C. Code § 22-1002.01, Reporting requirements.	Title 8, Chapter 18, Animal Control.
D.C. Code § 22-1004, Arrests without warrants authorized; notice to owner.	Title 23, Chapter 5, Warrants and Arrests; Subchapter V, Arrest Without Warrant.
D.C. Code § 22-1005, Issuance of search warrants.	Title 23, Chapter 5, Warrants and Arrests; Subchapter II, Search Warrants.
D.C. Code § 22-1006, Prosecution of offenders.	No recommendation for relocation.
D.C. Code § 22-1008, Relief of Impounded Animals.	Title 8, Chapter 18, Animal Control
D.C. Code § 22-1716, Statement of Purpose.	Title 3, Chapter 13, Lottery and Charitable Games Control Board.
D.C. Code § 22-1717, Permissible gambling activities.	Title 3, Chapter 13, Lottery and Charitable Games Control Board.
D.C. Code § 22-1718, Advertising and promotion.	Title 3, Chapter 13, Lottery and Charitable Games Control Board.
D.C. Code § 22-1839, Reputation or opinion evidence.	The Criminal Code Reform Commission recommends that this provision be moved to Title 23, and a new chapter containing evidentiary provisions be created therein.
D.C. Code § 22-1840, Civil action.	No recommendation for relocation. The Criminal Code Reform Commission agrees that it is desirable to remove all crime-dependent civil actions into one place in the D.C. Code. However, to provide notice of the civil provisions, it is recommended that mention of this civil action should be placed in the “Penalties” sections of the corresponding criminal statute (e.g., “Crime punishable by X years, and the possibility of civil action as codified at [new civil section].”).
D.C. Code § 22-1841, Data collection and dissemination.	No recommendation for relocation. The Criminal Code Reform Commission does recommend, however, that this statute be relocated with other data collection requirements. The language in the bill states: “(e) This section shall apply upon the inclusion of its fiscal effect in an approved budget

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	and financial plan.” However, no such budget and financial plan has been so completed. Hence, while the statute appears to have been properly passed in to law, it does not currently “apply.” This section should be more properly labeled to ensure the reader is aware of the non-funded provisions.
D.C. Code § 22-1842, Training Program.	No recommendation for relocation.
D.C. Code § 22-1843, Public posting of human trafficking hotline.	No recommendation for relocation.
D.C. Code § 22-2603.04, Detainment Power.	Title 23, Chapter 5, Warrants and Arrests.
D.C. Code § 22-2713, Premises for lewdness.	Title 42, Subtitle VI, § 3120 series.
D.C. Code § 22-2714, Abatement of nuisance.	Title 42, Subtitle VI, § 3120 series. The Criminal Code Reform Commission recommends replacing “Corporation Counsel”, which appears twice in this statute, with “Attorney General for the District of Columbia”. The Criminal Code Reform Commission recommends replacing “at his instance” with “at the defendant’s instance” to avoid unnecessarily gendered language.
D.C. Code § 22-2715, Abatement of nuisance.	Title 42, Subtitle VI, § 3120 series.
D.C. Code § 22-2716, Violation of injunction.	Title 42, Subtitle VI, § 3120 series.
D.C. Code § 22-2717, Order of abatement.	Title 42, Subtitle VI, § 3120 series.
D.C. Code § 22-2718, Disposition of proceeds of sale	Title 42, Subtitle VI, § 3120 series.
D.C. Code § 22-2719, Bond for abatement.	Title 42, Subtitle VI, § 3120 series. The Criminal Code Reform Commission recommends replacing both “Collector of Taxes” and “Department of Finance and Revenue” with “Office of Tax and Revenue.”
D.C. Code § 22-2720, Tax for maintaining such nuisance.	Title 42, Subtitle VI, § 3120 series. The Criminal Code Reform Commission recommends replacing “Collector of Taxes” with “Office of Tax and

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	Revenue.”
D.C. Code § 22-3020.51, Definitions.	Title 4, Chapter 13, Child Abuse and Neglect.
D.C. Code § 22-3020.52, Child sexual abuse reporting requirements and privileges.	Title 4, Chapter 13, Child Abuse and Neglect.
D.C. Code § 22-3020.53, Defense to child sexual abuse non-reporting.	Title 4, Chapter 13, Child Abuse and Neglect.
D.C. Code § 22-3020.54, Penalties for child sexual abuse non-reporting.	Title 4, Chapter 13, Child Abuse and Neglect.
D.C. Code § 22-3020.55, Immunity from liability for child sexual abuse non-reporting.	Title 4, Chapter 13, Child Abuse and Neglect.
D.C. Code § 22-3021, Reputation or opinion evidence of victim's past sexual behavior inadmissible.	The Criminal Code Reform Commission recommends that this provision be moved to Title 23, and a new chapter containing evidentiary provisions be created therein.
D.C. Code § 22-3022, Admissibility of other evidence of victim's past sexual behavior.	The Criminal Code Reform Commission recommends that this provision be moved to Title 23, and a new chapter containing evidentiary provisions be created therein.
D.C. Code § 22-3023, Prompt reporting.	The Criminal Code Reform Commission recommends that this provision be moved to Title 23, and a new chapter containing evidentiary provisions be created therein.
D.C. Code § 22-3024, Privilege inapplicable for spouses and domestic partners.	The Criminal Code Reform Commission recommends that this provision be moved to Title 23, and a new chapter containing evidentiary provisions be created therein.
D.C. Code § 22-3225.08, Investigation and report of insurance fraud.	No recommendation for relocation.
D.C. Code § 22-3225.09, Insurance fraud prevention and detection.	No recommendation for relocation.

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D.C. Code § 22-3225.10, Regulations.	No recommendation for relocation.
D.C. Code § 22-3225.11, Limited law enforcement authority.	No recommendation for relocation. The Criminal Code Reform Commission recommends that “Corporation Counsel” be replaced by “Attorney General for the District of Columbia.”
D.C. Code § 22-3225.12, Annual anti-fraud activity reporting requirement.	No recommendation for relocation.
D.C. Code § 22-3225.13, Immunity.	No recommendation for relocation.
D.C. Code § 22-3225.14, Prohibition of solicitation.	No recommendation for relocation. The Criminal Code Reform Commission recommends that the phrase “his or her” replace all instances of “his” in the statute.
D.C. Code § 22-3226.02, Application for a certificate of registration of telephone solicitor.	No recommendation for relocation.
D.C. Code § 22-3226.03, Surety bond requirements for telephone solicitors.	No recommendation for relocation.
D.C. Code § 22-3226.04, Security alternative to surety bonds.	No recommendation for relocation.
D.C. Code § 22-3226.05, Exemptions.	No recommendation for relocation.
D.C. Code § 22-3226.09, Civil Penalties.	No recommendation for relocation. The Criminal Code Reform Commission also agrees that it is desirable to remove all crime-dependent civil actions into one place in the D.C. Code. However, to provide notice of the civil provisions, it is recommended that mention of this civil action should be placed in the “Penalties” sections of the corresponding criminal statute (e.g., “Crime punishable by X years, and the possibility of civil action as codified at [new civil section].”).
D.C. Code § 22-3226.11, Private right of action.	No recommendation for relocation. The Criminal Code Reform Commission also agrees that it is desirable to remove all crime-dependent civil actions into one place in the D.C. Code. However, to provide notice of the civil provisions, it is recommended that mention of this civil action should be placed in the “Penalties” sections of the corresponding criminal statute (e.g., “Crime punishable by X years, and the

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	possibility of civil action as codified at [new civil section].”).
D.C. Code § 22-3226.12, Statute of limitations period.	No recommendation for relocation.
D.C. Code § 22-3226.13, Task force to combat fraud.	No recommendation for relocation. The Criminal Code Reform Commission recommends that “Office of Corporation Counsel” be replaced with “Office of the Attorney General for the District of Columbia.”
D.C. Code § 22-3226.14, Fraud Prevention Fund.	No recommendation for relocation.
D.C. Code § 22-3226.15, General disclosures.	No recommendation for relocation.
D.C. Code § 22-3704, Civil action.	No recommendation for relocation. The Criminal Code Reform Commission also agrees that it is desirable to remove all crime-dependent civil actions into one place in the D.C. Code. However, to provide notice of the civil provisions, it is recommended that mention of this civil action should be placed in the “Penalties” sections of the corresponding criminal statute (e.g., “Crime punishable by X years, and the possibility of civil action as codified at [new civil section].”).
Chapter 38, Sexual Psychopaths (D.C. Code §§ 22-3801 - 22-3811).	Title 24.
Chapter 39, HIV Testing of Certain Criminal Offenders. (D.C. Code §§ 22-3901 - 22-3903).	Title 23.
Chapter 40, Sex Offender Registration (D.C. Code §§ 22-4001 - 22-4014; 22-4016; 22-4017).	Title 24. The Criminal Code Reform Commission notes that § 22-4015 provides a penalty for failing to register as a sex offender. This provision will remain in Title 22.
Chapter 41A, DNA Testing and Post-Conviction Relief for Certain Persons (D.C. Code §§ 22-4131 - 22-4133; 22-4135).	Title 23. The Criminal Code Reform Commission notes that § 22-4134 provides a penalty for destroying or tampering with evidence. This provision will remain in Title 22. In D.C. Code § 22-4131, the Criminal Code Reform Commission recommends that “Corporation Counsel” be replaced by “Attorney General for the District of Columbia.”
Chapter 41B, DNA Sample Collection (D.C. Code §22-4151).	Title 24. The Criminal Code Reform Commission notes that § 22-

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	<p>4151(a)(3) refers to subsection (b) of § 22-1312. However, subsection (b) was deleted from § 22-1312 in 2011 and much of the behavior criminalized in former § 22-1312(b) appears to have been decriminalized. The deletion of subsection (b) from § 22-1312 affects the scope of § 22-4151 and the Council may wish to revise § 22-4151.</p>
<p>Chapter 42, National Institute of Justice Appropriations (D.C. Code § 22-4201).</p>	<p>No recommendation for relocation.</p>
<p>Chapter 42A, Criminal Justice Coordinating Council (D.C. Code §§ 22-4231 - 22-4244).</p>	<p>Title 3, Chapter 9.</p>
<p>Chapter 42B, Homicide Elimination (D.C. Code § 22-4251).</p>	<p>No recommendation for relocation.</p>
<p>Chapter 43. Game and Fish Laws (D.C. Code §§ 22-4301 - 22-43304328; 22-4330; 22-4332; 22-4333).</p>	<p>No recommendation for relocation.</p> <p>The Criminal Code Reform Commission notes that § 22-4331 provides a penalty for violating any provision of this chapter and § 22-4329 codifies an offense. These<u>is</u> provisions<u> provision</u> will remain in Title 22.</p> <p>For §§ 22-4328, 22-4329, 22-4332, and 22-4333, the Criminal Code Reform Commission notes that the references to “Mayor” and “Council of the District of Columbia” are not contained in the organic legislation, which instead refers to the “Commissioners.” However, as is discussed in Part 2.B.i of Appendix VI of this Report, the references to “Mayor” and “Council of the District of Columbia” in these statutes correctly replace references to the “Commissioners.”</p> <p>In D.C. Code § 22-4330, the Criminal Code Reform Commission recommends that “District of Columbia Council” in subsection (a) be replaced with the “Council of the District of Columbia.” Otherwise, the reference to “Mayor” in this statute correctly replaces the reference to the “Commissioners” in the organic legislation (discussed in Part 2.B.i of Appendix VI).</p> <p>In D.C. Code § 22-4331, the Criminal Code Reform Commission recommends that “Corporation Counsel” be replaced by “Attorney General for the District of Columbia,” and that “Assistant Corporation Counsel” be replaced with</p>

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	“Assistant Attorney General.”
D.C. Code § 22-4401, Harbor Regulations.	Title I. The Criminal Code Reform Commission notes that this statute was repealed on March 11, 2015.

Part 2: Text of Statutes Suggested for Relocation from Title 22.

D.C. Code § 22-1002.01. Reporting requirements.

(a) (1) Any law enforcement or child or protective services employee who knows of or has reasonable cause to suspect an animal has been the victim of cruelty, abandonment, or neglect, or observes an animal at the home of a person reasonably suspected of child, adult, or animal abuse, shall provide a report within 2 business days to the Mayor. If the health and welfare of the animal is in immediate danger, the report shall be made within 6 hours.

(2) The report shall include:

(A) The name, title, and contact information of the individual making the report;

(B) The name and contact information, if known, of the owner or custodian of the animal;

(C) The location, along with a description, of where the animal was observed; and

(D) The basis for any suspicion of animal cruelty, abandonment, or neglect, including the date, time, and a description of the observation or incident which led the individual to make the report.

(b) When 2 or more law enforcement or child or protective services employees jointly suspect an animal has been the victim of cruelty, abandonment, or neglect, or jointly observe an animal at the home of a person reasonably suspected of child, adult, or animal abuse, a report may be made by one person by mutual agreement.

(c) No individual who in good faith reports a reasonable suspicion of abuse shall be liable in any civil or criminal action.

(d) Upon receipt of a report, any agency charged with the enforcement of animal cruelty laws shall make reasonable attempts to verify the welfare of the animal.

(e) For the purposes of this section, the terms "reasonable cause to suspect", "suspect", "reasonably suspected", and "reasonable suspicion" mean a basis for reporting facts leading a person of ordinary care and prudence to believe and entertain a reasonable suspicion that criminal activity is occurring or has occurred.

D.C. Code § 22-1004. Arrests without warrant authorized; notice to owner.

(a) Any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by § 44-1505 and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same; provided, the owner shall take charge of the same within 20 days from the date of said notice. The person making the arrest or the humane officer taking possession of an animal shall have a lien on said animals for the expense of such care and provisions.

(b) (1) A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. The person taking possession of the animal or animals, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for the animals until the owner shall take charge of the animals; provided that, the owner shall take charge of the animals within 20 days from the date of the notice.

(2) If the owner or custodian of the animal or animals fails to respond after 20 days, the animal or animals shall become the property of the Washington Humane Society and the Washington Humane Society shall have the authority to:

- (A) Place the animal or animals up for adoption in a suitable home;
- (B) Retain the animal or animals, or
- (C) Humanely destroy the animal or animals.

(c) (1) The Mayor shall establish by rulemaking a notice and hearing process for the owner of the animal to contest the seizure, detention, and terms of release and treatment of the animal, the allegation of cruelty, abandonment, or neglect, and the imposition of the lien and costs assessed for caring and providing for the animal.

(2) Within 30 days of December 5, 2008, the proposed rules shall be submitted to the Council for a 45-day period of review, excluding weekends, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed rules, by resolution, within the 45-day review period, the rules shall be deemed approved.

D.C. Code § 22-1005. Issuance of search warrants.

When complaint is made by any humane officer of the Washington Humane Society on oath or affirmation, to any magistrate authorized to issue warrants in

criminal cases, that the complainant believes, and has reasonable cause to believe, that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant, authorizing any marshal, deputy marshal, police officer, or any humane officer of the Washington Humane Society to search such building or place.

D.C. Code § 22-1006. Prosecution of offenders; disposition of fines.

It shall be the duty of all marshals, deputy marshals, police officers, or any humane officer of the Washington Humane Society, to prosecute all violations of the provisions of §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014, which shall come to their notice or knowledge, and fines and forfeitures collected upon or resulting from the complaint or information of any humane officer of the Washington Humane Society under §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed] shall inure and be paid over to said association, in aid of the benevolent objects for which it was incorporated.

D.C. Code § 22-1008. Relief of impounded animals.

In case any creature shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than 12 successive hours, it shall be lawful for any officer of the Washington Humane Society, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which such creature shall be so confined, and supply it with necessary food and water so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost for such food and water may be collected of the owner of such creature, and the said creature shall not be exempt from levy and sale upon execution issued upon a judgment thereof.

D.C. Code § 22-1716. Statement of purpose.

It is the purpose of this subchapter to legalize lotteries, daily numbers games, bingo, raffles, and Monte Carlo night parties, which activities are to be conducted only by the District of Columbia and only those licensed by the District of Columbia and subject to the jurisdiction, authority, and control of the District of Columbia. These activities will provide revenue to the District of Columbia and will provide the citizens of the District of Columbia financial benefits.

D.C. Code § 22-1717. Permissible gambling activities.

Nothing in subchapter I of this chapter shall be construed to prohibit the operation of or participation in lotteries and/or daily numbers games operated by and for the benefit of the District of Columbia by the Lottery and Charitable Games Control Board; bingo, raffles, and Monte Carlo night parties organized for educational and

charitable purposes, regulated by the District of Columbia Lottery and Charitable Games Control Board.

D.C. Code § 22-1718. Advertising and promotion; sale and possession of lottery and numbers tickets and slips.

(a) Nothing in subchapter I of this chapter shall be construed to prohibit the advertising and promotion of excepted permissible gambling activities pursuant to § 22-1717, hereof, including, but not limited to, the sale, by agents authorized by the District of Columbia, and the possession of tickets, certificates, or slips for lottery and daily numbers games excepted and permissible pursuant to § 22-1717, hereof, and the sale, lease, purchase, or possession of tickets, slips, certificates, or cards for bingo, raffles, and Monte Carlo night parties, excepted and permissible pursuant to § 22-1717, hereof.

(b) Nothing in § 22-1701 shall prohibit advertising a lottery by the Maryland State Lottery so long as Maryland does not prohibit advertising or otherwise publishing an account of a lottery by the District of Columbia.

D.C. Code § 22-1839. Reputation or opinion evidence.

In a criminal case in which a person is accused of trafficking in commercial sex, as prohibited by § 22-1833, sex trafficking of children, as prohibited by § 22-1834, or benefitting financially from human trafficking, as prohibited by § 22-1836, reputation or opinion evidence of the past sexual behavior of the alleged victim is not admissible. Evidence of an alleged victim's past sexual behavior other than reputation or opinion evidence also is not admissible, unless such evidence other than reputation or opinion evidence is admitted in accordance with § 22-3022(b), and is constitutionally required to be admitted.

D.C. Code § 22-1840. Civil action.

(a) An individual who is a victim of an offense prohibited by § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836 may bring a civil action in the Superior Court of the District of Columbia. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where a defendant's acts were willful and malicious.

(b) Any statute of limitation imposed for the filing of a civil suit under this section shall not begin to run until the plaintiff knew, or reasonably should have known, of any act constituting a violation of § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836, or until a minor plaintiff has reached the age of majority, whichever is later.

(c) If a person entitled to sue is imprisoned, insane, or similarly incapacitated at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the incapacity is not part of the time limited for the commencement of the action.

(d) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action.

D.C. Code § 22-1841. Data collection and dissemination. [Not funded]

[Not funded].

D.C. Code § 22-1842. Training program.

(a) The Metropolitan Police Department ("MPD"), the Child and Family Services Agency ("CFSA"), and the Department of Youth Rehabilitation Services ("DYRS") shall provide training on human trafficking to:

(1) New law enforcement officers, social workers, and case managers; and

(2) Current law enforcement officers, social worker employees, and case managers who have not previously received comparable training.

(b) The training shall be a minimum of 4 hours and shall include:

(1) The nature and dimension of human trafficking;

(2) The legal rights and remedies available to a victim of human trafficking;

(3) The services and facilities available to a victim of human trafficking;

(4) The legal duties imposed on a police officer, social worker, or case manager to enforce the provisions of D.C. Law 20-276, and to offer protection and assistance to a victim of human trafficking;

(5) Techniques for determining when a person may be a victim of trafficking;

(6) Techniques for handling a human trafficking offense that promotes the safety of the victim; and

(7) The particular needs of youth and minor trafficking victims;

(c) MPD, CFSA, and DYRS shall consult with community organizations that provide training, resources, advocacy, or services to victims of human trafficking for assistance in developing and presenting training on human trafficking.

D.C. Code § 22-1843. Public posting of human trafficking hotline.

[Not funded].

D.C. Code § 22-2603.04. Detainment power.

Any person who, being lawfully upon the grounds of the penal institution, introduces or attempts to introduce contraband prohibited by § 2-2603.02(a) may be taken into custody by the warden and detained for not more than 2 hours, pending surrender to a police officer with the Metropolitan Police Department.

D.C. Code § 22-2713. Premises occupied for lewdness, assignation, or prostitution declared nuisance.

(a) Whoever shall erect, establish, continue, maintain, use, own, occupy, or release any building, erection, or place used for the purpose of lewdness, assignation, or prostitution in the District of Columbia is guilty of a nuisance, and the building, erection, or place, or the ground itself in or upon which such lewdness, assignation, or prostitution is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and contents are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.

(b) Whoever shall erect, establish, continue, maintain, use, own, occupy, or release any building, erection, or place which is resorted to by persons using controlled substances in violation of Chapter 9 of Title 48, for the purpose of using any of these substances or for the purpose of keeping or selling any of these substances in violation of Chapter 9 of Title 48, is guilty of a nuisance, and the building, erection, or place, or the ground itself in or upon which such activity is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, and contents thereof, are also declared a nuisance and disorderly house, and shall be enjoined and abated as hereinafter provided.

D.C. Code § 22-2714. Abatement of nuisance under § 22-2713 by injunction - Temporary injunction.

Whenever a nuisance is kept, maintained, or exists, as defined in § 22-2713, the United States Attorney for the District of Columbia, the Attorney General of the United States, the Corporation Counsel of the District of Columbia, or any citizen of the District of Columbia, may maintain an action in equity in the name of the United States of America or in the name of the District of Columbia, upon the relation of such United States Attorney for the District of Columbia, the Attorney

General of the United States, the Corporation Counsel of the District of Columbia, or citizen, to perpetually enjoin said nuisance, the person or persons conducting or maintaining the same, and the owner or agent of the building or ground upon which said nuisance exists. In such action the court, or a judge in vacation, shall, upon the presentation of a petition therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction, without bond, if it shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony, or otherwise, as the complainant may elect, unless the court or judge by previous order shall have directed the form and manner in which it shall be presented. Three days notice, in writing, shall be given the defendant of the hearing of the application, and if then continued at his instance the writ as prayed shall be granted as a matter of course. When an injunction has been granted it shall be binding on the defendant throughout the District of Columbia and any violation of the provisions of injunction herein provided shall be a contempt as hereinafter provided.

D.C. Code § 22-2715. Abatement of nuisance under § 22-2713 by injunction - Trial; dismissal of complaint; prosecution; costs.

The action when brought shall be triable at the first term of court, after due and timely service of the notice has been given, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of said nuisance. If the complaint is filed by a citizen, it shall not be dismissed, except upon a sworn statement made by the complainant and the complainant's attorney, setting forth the reasons why the action should be dismissed, and the dismissal approved by the United States Attorney for the District of Columbia or the Attorney General of the United States of America in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the United States Attorney for the District of Columbia to prosecute said action to judgment; and if the action is continued more than 1 term of court, any citizen of the District of Columbia, or the United States Attorney for the District of Columbia, may be substituted for the complaining party and prosecute said action to judgment. If the action is brought by a citizen, and the court finds there was no reasonable ground or cause for said action, the costs may be taxed to such citizen.

D.C. Code § 22-2716. Violation of injunction granted under § 22-2714.

In case of the violation of any injunction granted under the provisions of § 22-2714, the court, or, in vacation, a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an information, under oath, setting out the alleged facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may at any stage of the proceedings demand the production and oral examination of the witnesses. A party found guilty of contempt, under the

provisions of this section, shall be punished by a fine of not less than \$200 and not more than the amount set forth in § 22-3571.01 or by imprisonment in the District Jail not less than three nor more than 6 months or by both fine and imprisonment.

D.C. Code § 22-2717. Order of abatement; sale of property; entry of closed premises punishable as contempt.

If the existence of the nuisance be established in an action as provided in §§ 22-2713 to 22-2720, or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, or movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, unless sooner released. If any person shall break and enter or use a building, erection, or place so directed to be closed such person shall be punished as for contempt, as provided in § 22-2716.

D.C. Code § 22-2718. Disposition of proceeds of sale.

The proceeds of the sale of the personal property as provided in § 22-2717, shall be applied in the payment of the costs of the action and abatement and the balance, if any, shall be paid to the defendant.

D.C. Code § 22-2719. Bond for abatement; order for delivery of premises; effect of release.

If the owner appears and pays all costs of the proceeding and files a bond, with sureties to be approved by the clerk, in the full value of the property, to be ascertained by the court or, in vacation, by the Collector of Taxes of the District of Columbia, conditioned that such owner will immediately abate said nuisance and prevent the same from being established or kept within a period of 1 year thereafter, the court, or, in vacation, the judge, may, if satisfied of such owner's good faith, order the premises closed under the order of abatement to be delivered to said owner and said order of abatement canceled so far as the same may relate to said property; and if the proceeding be an action in equity and said bond be given and costs therein paid before judgment and order of abatement, the action shall be thereby abated as to said building only. The release of the property under the provisions of this section shall not release it from judgment, lien, penalty, or liability to which it may be subject by law.

D.C. Code § 22-2720. Tax for maintaining such nuisance.

Whenever a permanent injunction issues against any person for maintaining a nuisance as herein defined, or against any owner or agent of the building kept or used for the purpose prohibited by §§ 22-2713 to 22-2720, there shall be assessed

against said building and the ground upon which the same is located and against the person or persons maintaining said nuisance, and the owner or agent of said premises, a tax of \$300. The assessment of said tax shall be made by the Director of the Department of Finance and Revenue of the District of Columbia and shall be made within 3 months from the date of the granting of the permanent injunction. In case the Director fails or neglects to make said assessment the same shall be made by the Chief of Police, and a return of said assessment shall be made to the Collector of Taxes. Said tax shall be a perpetual lien upon all property, both personal and real used for the purpose of maintaining said nuisance, and the payment of said tax shall not relieve the person or building from any other penalties provided by law. The provisions of the law relating to the collection and distribution of taxes upon personal and real property shall govern in the collection and distribution of the tax herein prescribed in so far as the same are applicable and not in conflict with the provisions of said sections.

D.C. Code § 22-3020.51. Definitions.

For the purposes of this subchapter, the term:

- (1) "Child" means an individual who has not yet attained the age of 16 years.
- (2) "Person" means an individual 18 years of age or older.
- (3) "Police" means the Metropolitan Police Department.
- (4) "Sexual abuse" means any act that is a violation of:
 - (A) Section 22-1834;
 - (B) Section § 22-2704;
 - (C) This chapter (§ 22-3001 et seq.); or
 - (D) Section 22-3102.

D.C. Code § 22-3020.52. Reporting requirements and privileges.

(a) Any person who knows, or has reasonable cause to believe, that a child is a victim of sexual abuse shall immediately report such knowledge or belief to the police. For the purposes of this subchapter, a call to 911, or a report to the Child and Family Services Agency, shall be deemed a report to the police.

(b) Any person who is or has been a victim of sexual abuse is not required to report pursuant to subsection (a) of this section if the identity of the alleged perpetrator matches the identity of the victim's abuser.

(c) No legally recognized privilege, except for the following, shall apply to this subchapter:

(1) A lawyer or a person employed by a lawyer is not required to report pursuant to subsection (a) of this section if the lawyer or employee is providing representation in a criminal, civil, or delinquency matter, and the basis for the knowledge or belief arises solely in the course of that representation.

(2) (A) The notification requirements of subsection (a) of this subsection do not apply to a priest, clergyman, rabbi, or other duly appointed, licensed, ordained, or consecrated minister of a given religion in the District of Columbia, or a duly accredited practitioner of Christian Science in the District of Columbia, if the basis for the knowledge or belief is the result of a confession or penitential communication made by a penitent directly to the minister if:

(i) The penitent made the confession or penitential communication in confidence;

(ii) The confession or penitential communication was made expressly for a spiritual or religious purpose;

(iii) The penitent made the confession or penitential communication to the minister in the minister's professional capacity; and

(iv) The confession or penitential communication was made in the course of discipline enjoined by the church or other religious body to which the minister belongs.

(B) A confession or communication made under any other circumstances does not fall under this exemption.

(d) This section should not be construed as altering the special duty to report by persons specified in § 4-1321.02(b).

D.C. Code § 22-3020.53. Defense to non-reporting.

(a) Any survivor of domestic violence may use such domestic violence as a defense to his or her failure to report under this subchapter.

(b) For the purposes of this section, the term "domestic violence" means intimate partner violence, as defined in § 16-1001(7), and intrafamily violence, as defined in § 16-1001(9).

D.C. Code § 22-3020.54. Penalties.

(a) Any person required to make a report under this subchapter who willfully fails to make such a report shall be subject to a civil fine of \$300.

(b) Adjudication of any infraction of this subchapter shall be handled by the Office of Administrative Hearings pursuant to § 2-1831.03(b-6).

D.C. Code § 22-3020.55. Immunity from liability.

(a) Any person who in good faith makes a report pursuant to this subchapter shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report or any participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the child or resulting from the report, good faith shall be presumed unless rebutted.

(b) Any person who makes a good-faith report pursuant to this subchapter and, as a result thereof, is discharged from his or her employment or in any other manner discriminated against with respect to compensation, hire, tenure, or terms, conditions, or privileges of employment, may commence a civil action for appropriate relief. If the court finds that the person is an individual who was required to report, who in good faith made a report, and who was discharged or discriminated against as a result, the court may issue an order granting appropriate relief, including reinstatement with back pay. The District may intervene in any action commenced under this subsection.

D.C. Code § 22-3021. Reputation or opinion evidence of victim's past sexual behavior inadmissible.

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under subchapter II of this chapter, reputation or opinion evidence of the past sexual behavior of an alleged victim of such offense is not admissible.

(b) For the purposes of this subchapter, "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which an offense under subchapter II of this chapter is alleged.

D.C. Code § 22-3022. Admissibility of other evidence of victim's past sexual behavior.

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under subchapter II of this chapter, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is:

(1) Admitted in accordance with subsection (b) of this section and is constitutionally required to be admitted; or

(2) Admitted in accordance with subsection (b) of this section and is evidence of:

(A) Past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or bodily injury; or

(B) Past sexual behavior with the accused where consent of the alleged victim is at issue and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which such offense is alleged.

(b) (1) If the person accused of committing an offense under subchapter II of this chapter intends to offer under subsection (a) of this section, evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph, and the accompanying offer of proof, shall be filed under seal and served on all other parties and on the alleged victim.

(2) The motion described in paragraph (1) of this subsection shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subsection (a) of this section, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim, and offer relevant evidence. If the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers, or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) of this subsection that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

D.C. Code § 22-3023. Prompt reporting.

Evidence of delay in reporting an offense under subchapter II of this chapter to a public authority shall not raise any presumption concerning the credibility or veracity of a charge under subchapter II of this chapter.

D.C. Code § 22-3024. Privilege inapplicable for spouses or domestic partners.

Laws attaching a privilege against disclosure of communications between spouses or domestic partners are inapplicable in prosecutions under subchapter II of this chapter where the defendant is or was married to the victim, or is or was a domestic partner of the victim, or where the victim is a child.

D.C. Code § 22-3225.08. Investigation and report of insurance fraud.

(a) Based upon a reasonable belief, an insurer, insurance professional, and any other pertinent person, shall report to the Metropolitan Police Department or the Department of Insurance, Securities, and Banking, actions that may constitute the commission of insurance fraud, and assist in the investigation of insurance fraud by reasonably providing information when required by an investigating authority.

(b) The Commissioner may investigate suspected fraudulent insurance acts and persons engaged in the business of insurance. Nothing in this subchapter shall preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.

(c) An insurer, insurance professional, or any other pertinent person who fails to reasonably assist the investigation of an insurance fraud or fails to report an insurance fraud, and who is injured by that insurance fraud, shall be estopped from receiving restitution as provided in § 22-3225.05.

(d) Any information, documentation, or other evidence provided under this section by an insurer, its employees, producers, or agents, or by any other person, to the Department of Insurance, Securities, and Banking, the Metropolitan Police Department, or any other law enforcement agency in connection with any investigation of suspected fraud is not subject to public inspection as long as the Commissioner or law enforcement agency deems the withholding to be necessary to complete an investigation of the suspected fraud or to protect the person or entity investigated from unwarranted injury.

(e) Repealed.

D.C. Code § 22-3225.09. Insurance fraud prevention and detection.

(a) Within 6 months of April 27, 1999, every insurer licensed in the District shall submit to the Department of Insurance and Securities Regulation, an insurance

fraud prevention and detection plan ("plan"). The plan shall indicate specific procedures for the accomplishment of the following:

- (1) Prevention, detection, and investigation of insurance fraud;
- (2) Orientation of employees on insurance fraud prevention and detection;
- (3) Employment of fraud investigators;
- (4) Reporting of insurance fraud to the appropriate authorities; and
- (5) Collection of restitution for financial loss caused by insurance fraud.

(b) The Commissioner may review the plan for compliance with this section and may order reasonable modification or request a summary of the plan. The Commissioner may establish by regulation a fine for an insurer failing to comply with the plan. The plan shall not be deemed a public record for the purposes of any public records or subchapter II of Chapter 5 of Title 2.

(c) Notwithstanding any other provisions of law, an insurer who fails to submit an insurance prevention and detection plan, or the warning provision required by subsection (d) of this section shall be subject to a fine of \$ 500 per day, not to exceed \$ 25,000.

(d) No later than 6 months after April 27, 1999, all insurance application forms and all claim forms shall contain a conspicuous warning in language the same or substantially similar to the following:

"WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant."

(e) None of the requirements of this section shall be deemed to apply to reinsurers, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions.

D.C. Code § 22-3225.10. Regulations.

The Commissioner may promulgate regulations deemed necessary by the Commissioner for the administration of this subchapter.

D.C. Code § 22-3225.11. Limited law enforcement authority.

(a) The Commissioner shall have the power to issue and serve subpoenas, to compel witnesses to appear and testify, and to produce all books, records, papers, or documents in any insurance investigation or examination.

(b) Any willful false testimony by a witness before the Commissioner as to any material fact shall constitute perjury and shall be punished in the manner prescribed by law for such offense.

(c) If any witness having been personally summoned shall neglect or refuse to obey the subpoena issued pursuant to subsection (a) of this section, the Commissioner may, through the Corporation Counsel, report that fact to the Superior Court of the District of Columbia or one of the judges thereof and the Court, or any judge thereof, may compel obedience to the subpoena to the same extent as witnesses may be compelled to obey the subpoenas of the Court.

(d) The Commissioner may administer oaths to witnesses summoned in any investigation or examination as set forth in subsection (a) of this section.

D.C. Code § 22-3225.12. Annual anti-fraud activity reporting requirement.

Each insurer and health maintenance organization licensed in the District shall file an annual anti-fraud activity report on March 31st of each year with the Commissioner, which shall contain information about the special investigation unit's insurance fraud activities during the preceding calendar year. Annual anti-fraud activity reports filed with the Commissioner shall be kept confidential and shall not be subject to the disclosure requirements of subchapter II of Chapter 5 of Title 2.

D.C. Code § 22-3225.13. Immunity.

No person shall be subject to civil liability or criminal prosecution for reporting any suspected insurance fraud if:

(1) The report was made to:

(A) The Department of Insurance, Securities, and Banking, the Metropolitan Police Department, or any other law enforcement authority; or

(B) Any insurer, insurance agent, or other person who collects, reviews, or analyzes information concerning insurance fraud; and

(2) The person or entity reporting the suspected fraud acted without malice when making the report.

D.C. Code § 22-3225.14. Prohibition of solicitation.

(a) (1) Except as provided in paragraph (2) of this subsection, it is unlawful for a practitioner, whether directly or through a paid intermediary, to solicit for financial gain a client, patient, or customer within 21 days of a motor vehicle accident with the intent to seek benefits under a contract of insurance or to assert a claim against an insured, a governmental entity, or an insurer on behalf of any person arising out of the accident.

(2) The prohibition in paragraph (1) of this subsection does not prohibit:

(A) A practitioner from soliciting a client, patient, or customer by regular mail through the U.S. Postal Service or through the use of general advertising directed to the public;

(B) A practitioner or his agents from contacting a potential client, patient, or customer, or a family member, friend, or coworker of the potential client, patient, or customer, where the practitioner has a preexisting business or personal relationship with the potential client, patient, or customer;

(C) A practitioner or his agents from contacting a potential client, patient, or customer where the contact was initiated by the potential client, patient, or customer, or by a family member, friend, or coworker of the potential client, patient or customer; or

(D) Providing advice and assistance to incarcerated persons in pursuing administrative remedies that may be a prerequisite to suit or in seeking appropriate medical care and treatment.

(b) Except as provided in subsection (a)(2) of this section, it is unlawful for a person to solicit for financial gain a client, patient, or customer within 21 days of a motor vehicle accident for the purpose of directing the client, patient, or customer to a practitioner.

(c) A person or practitioner found by clear and convincing evidence to have violated the provisions of this section shall be subject to a civil penalty of \$ 1,000. The Mayor may increase this penalty by rulemaking.

(d) (1) If a person involved in an automobile accident, or his parent or guardian, executes, within 21 days of a motor vehicle accident, a release of liability, without the assistance or guidance of legal counsel, pursuant to the settlement of a claim for personal injury, that person or his parent or guardian may void the release; provided, that the insurance carrier or other settling party receives written notice of the intent to void the release within 14 days of the date that the release was executed, and the written notice is accompanied by any check or settlement

proceeds related to the claim for personal injury that had been delivered to the claimant.

(2) A release of liability executed within 21 days of the accident giving rise to the claim of personal injury by a person who is not represented by counsel shall contain a notice of the claimant's right to rescind conspicuously and separately stated on the release.

(e) The provisions of this section are not severable.

D.C. Code § 22-3226.02. Application for a certificate of registration of telephone solicitor.

(a) No person shall transact any business as a telephone solicitor without first having obtained a certificate of registration from the Mayor.

(b) The application for certificate of registration shall be made at least 60 business days prior to offering for sale consumer goods or services by telephone.

(c) The Mayor shall provide an application form for the annual certificate of registration.

(d) The application for a certificate of registration as a telephone solicitor shall include, but not be limited to, the following information:

(1) The true name, current address, telephone number and location of the telephone solicitor and the telemarketing business, including each name and trade name under which the telephone solicitor intends to engage in telephone solicitations;

(2) Each occupation or business that the telemarketing business' principal owner or owners have engaged in for the 2 years immediately preceding the date of the application;

(3) Whether the applicant has been convicted or pled guilty to, or is being prosecuted by indictment for racketeering, violations of state or federal securities laws, or a theft offense;

(4) Whether there has been entered against the applicant an injunction, temporary restraining order or a final judgment in any civil or administrative action involving fraud, theft, racketeering, embezzlement, fraudulent conversion or misappropriation of property, including any pending litigation;

(5) Whether the applicant, at any time during the previous 7 years, has filed for bankruptcy, been adjudged bankrupt or been reorganized because of insolvency;

(6) The true name, mailing address, and date of birth of the following:

- (A) Each seller or other person employed by the applicant;
 - (B) Each person participating in or responsible for the management of the applicant's business;
 - (C) Each person principally responsible for the management of the applicant's business; and
- (7) The name and true address of a registered agent for service of process in the District of Columbia for the applicant's business.
- (e) The Mayor shall serve as the registered agent if no registered agent is appointed or if the individual or organization named ceases to serve as the registered agent and no successor is appointed.
 - (f) The Mayor shall investigate the veracity of an application.
 - (g) The Mayor shall deny a certificate of registration when the Mayor determines that an application contains false information.
 - (h) The Mayor shall provide written notification to an applicant when an application has been denied.
 - (i) The Mayor shall notify the applicant in writing of the information that the Mayor finds to be false.
 - (j) No person may conduct telemarketing in the District of Columbia without having first obtained a certificate of registration.
 - (k) The Mayor shall either deny or grant an application within 30 days of the filing of an application.
 - (l) The Mayor may establish reasonable fees for filing of applications. The Mayor shall make available printed license application forms as well as electronic forms, which may be downloaded by computer.
 - (m) Certificates of registration issued in accordance with this subchapter shall be valid for one year. Prior to expiration of a certificate of registration, an applicant may obtain a new certificate by the filing of a new application.
 - (n) If any person has obtained a certificate of registration under false pretenses, including providing false information in an application, the certificate of registration shall be revoked and may be reinstated only upon proof of correction.

D.C. Code § 22-3226.03. Surety bond requirements for telephone solicitors.

(a) The application for registration or renewal shall be accompanied by a surety bond in the amount of \$50,000. The bond shall provide for the indemnification of any person suffering a loss as the result a violation of this subchapter.

(b) The surety may terminate the bond upon giving a 60-day written notice to the principal and to the Mayor.

(c) Unless the bond is replaced by that of another surety before the expiration of the 60-day notice of cancellation, the registration of the principal shall be treated as lapsed.

D.C. Code § 22-3226.04. Security alternative to surety bonds.

(a) An applicant required under this subchapter to file a bond with a registration application may file with the Mayor, in lieu thereof, a certificate of deposit or government bond in the amount of \$50,000.

(b) The Mayor shall hold the certificate of deposit or government bond for 3 years starting from the date the telemarketing business ceases to operate or the registration lapses in order to pay claims made against the telemarketing business during its period of operation after which time the Mayor shall return any remaining balance.

(c) The registration of the telemarketing business shall be treated as lapsed if, at any time, the amount of bond, cash, certificate of deposit or government bonds falls below the amount required by this section.

(d) The surety bond shall remain in effect for 3 years from the period the telemarketing business ceases to operate in the District.

(e) The aggregate liability of the surety company to all persons injured by a telephone solicitor's violations of this subchapter shall not exceed the amount of the bond.

D.C. Code § 22-3226.05. Exemptions.

(a) A telephone solicitor shall be exempt from the registration and bonding requirements of this subchapter if the telephone solicitor is engaged in any of the following activities:

(1) Telephone solicitation for religious or political purposes, or for a charitable or educational institution, or fundraising for other tax-exempt, nonprofit organizations;

(2) A home solicitation sale that involves a subsequent face to face meeting between the seller and the consumer;

(3) Sales by a licensed securities, commodities, investment broker, or investment advisor when soliciting over the telephone within the scope of the person's license;

(4) A solicitation for the sale of a newspaper of general circulation and other publications that have a predominantly editorial or news-related content;

(5) A solicitation for a sale regulated by the Commodities Futures Trading Commission;

(6) A solicitation for the sale of any goods whenever the person allows a 7-day review period and a full refund within 30 days after the return of such goods to the person;

(7) A solicitation by a financial institution, such as a bank, trust company, a saving and loan association, a credit union, a commercial and consumer finance lender, regulated by the United States government;

(8) A solicitation by an insurance company or other organization that is licensed or authorized to conduct business in the District of Columbia;

(9) A solicitation for the sale of cable television services operating under the authority of a governmental franchise or permit;

(10) Fundraising on behalf of a college or university or any other public or private educational institution;

(11) A solicitation for sales pursuant to a catalog that includes clear disclosure of sales prices, shipping, handling and other charges;

(12) A solicitation by a political subdivision or instrumentality of the United States or any state of the United States, or any public utility that is subject to regulation by the District of Columbia Public Service Commission;

(13) A solicitation by a person who is a licensed travel agent acting within the scope of the agent's license; or

(14) A solicitation by a person who is a licensed real estate broker within the scope of the broker's license.

D.C. Code § 22-3226.09. Civil penalties.

(a) The following penalties may be imposed in addition to those otherwise available at law:

(1) Any telephone solicitor who violates any provision of this subchapter may be fined up to \$ 1,000 per violation.

(2) A permit or license shall be revoked or suspended if the seller or telephone solicitor fails to comply with the registration requirements of this subchapter.

(3) A judge may impose treble damages against any telephone solicitor who knowingly targets elderly persons or persons with disabilities.

(b) Fines shall be payable to the Fraud Prevention Fund established in § 22-3226.14.

D.C. Code § 22-3226.11. Private right of action.

(a) Any consumer injured as a result of a violation of § 22-3226.06, § 22-3226.07, or § 22-3226.08 may bring an action in the Superior Court of the District of Columbia to recover or obtain any of the following:

(1) A declaratory judgment;

(2) Injunctive relief;

(3) Reasonable attorney's fees and costs;

(4) Actual damages;

(5) Punitive damages; and

(6) Any other equitable relief which the court deems proper.

(b) Nothing in this subchapter shall prevent any consumer who is injured by any other trade practice from exercising any right or seeking any remedy to which the consumer might be entitled.

D.C. Code § 22-3226.12. Statute of limitations period.

Claims for damages or compensation under this subchapter shall be filed within 3 years of the time the seller or telephone solicitor initiated the solicitation telephone call.

D.C. Code § 22-3226.13. Task force to combat fraud.

- (a) The Mayor shall form a task force for the following purposes:
 - (1) Collecting information on telephone fraud;
 - (2) Taking steps to educate the public about fraud, including telephone fraud;
 - (3) Sharing information related to telephone fraud with District government agencies;
 - (4) Sharing information related to telephone fraud with other state and federal law enforcement agencies; and
 - (5) Advising the Mayor on enforcement of the provisions of this subchapter.
- (b) The task force may include representatives from the following agencies:
 - (1) Metropolitan Police Department;
 - (2) Department of Consumer and Regulatory Affairs;
 - (3) Office of Corporation Counsel; and
 - (4) Any other agency the Mayor deems appropriate.

D.C. Code § 22-3226.14. Fraud Prevention Fund.

- (a) There is established a Fraud Prevention Fund ("Fund"). This Fund shall be nonlapsing. Monies in the Fund shall not be commingled with the General Fund, nor shall the operation of the Fund impose a burden or charge on the General Fund.
- (b) Monies in the Fund shall consist of fines paid pursuant to this subchapter.
- (c) Monies from this fund may be used for the purposes of educating the public regarding fraud and crime prevention, supporting the task force to combat fraud, and enforcing this subchapter.
- (d) The District of Columbia Auditor shall perform an annual audit of the Fraud Prevention Fund.

D.C. Code § 22-3226.15. General disclosures.

(a) Within the first 30 seconds of a telephone call, the telephone solicitor shall identify himself or herself by stating his or her true name, the company on whose behalf the solicitation is being made, and the goods or services to be sold.

(b) Any person who violates this section shall be subject to civil penalties pursuant to § 22-3226.09.

D.C. Code § 22-3704. Civil action.

(a) Irrespective of any criminal prosecution or the result of a criminal prosecution, any person who incurs injury to his or her person or property as a result of an intentional act that demonstrates an accused's prejudice based on the actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, homelessness, physical disability, matriculation, or political affiliation of a victim of the subject designated act shall have a civil cause of action in a court of competent jurisdiction for appropriate relief, which includes:

(1) An injunction;

(2) Actual or nominal damages for economic or non-economic loss, including damages for emotional distress;

(3) Punitive damages in an amount to be determined by a jury or a court sitting without a jury; or

(4) Reasonable attorneys' fees and costs.

(b) In a civil action pursuant to subsection (a) of this section, whether an intentional act has occurred that demonstrates an accused's prejudice based on the actual or perceived color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, homelessness, physical disability, matriculation, or political affiliation of a victim of the subject designated act shall be determined by reliable, probative, and substantial evidence.

(c) The parent of a minor shall be liable for any damages that a minor is required to pay under subsection (a) of this section, if any action or omission of the parent or legal guardian contributed to the actions of the minor.

D.C. Code §§ 22-3801, 22-3802. Indecent acts with children; sodomy. [Repealed]

Repealed.

D.C. Code § 22-3803. Definitions.

For the purposes of this chapter:

(1) The term "sexual psychopath" means a person, not insane, who by a course of repeated misconduct in sexual matters has evidenced such lack of power to control his or her sexual impulses as to be dangerous to other persons because he or she is likely to attack or otherwise inflict injury, loss, pain, or other evil on the objects of his or her desire.

(2) The term "court" means a court in the District of Columbia having jurisdiction of criminal offenses or delinquent acts.

(3) The term "patient" means a person with respect to whom there has been filed with the clerk of any court a statement in writing setting forth facts tending to show that such person is a sexual psychopath.

(4) The term "criminal proceeding" means a proceeding in any court against a person for a criminal offense, and includes all stages of such a proceeding from the time the person is indicted, charged by an information, or charged with a delinquent act, to the entry of judgment, or, if the person is granted probation, the completion of the period of probation.

D.C. Code § 22-3804. Filing of statement.

(a) Whenever it shall appear to the United States Attorney for the District of Columbia that any person within the District of Columbia, other than a defendant in a criminal proceeding, is a sexual psychopath, such Attorney may file with the clerk of the Superior Court of the District of Columbia a statement in writing setting forth the facts tending to show that such a person is a sexual psychopath.

(b) Whenever it shall appear to the United States Attorney for the District of Columbia that any defendant in any criminal proceeding prosecuted by such Attorney or any Assistant United States Attorney is a sexual psychopath, such Attorney may file with the clerk of the court in which such proceeding is pending a statement in writing setting forth the facts tending to show that such defendant is a sexual psychopath.

(c) Whenever it shall appear to any court that any defendant in any criminal proceeding pending in such court is a sexual psychopath, the court may, if it deems such procedure advisable, direct the officer prosecuting the defendant to file with the clerk of such court a statement in writing setting forth the facts tending to show that such defendant is a sexual psychopath.

(d) Any statement filed in a criminal proceeding pursuant to subsection (b) or (c) of this section may be filed only:

- (1) Before trial;
- (2) After conviction or plea of guilty but before sentencing; or
- (3) After conviction or plea of guilty but before the completion of probation.

(e) This section shall not apply to an individual in a criminal proceeding who is charged with first degree sexual abuse, second degree sexual abuse, or assault with intent to commit first or second degree sexual abuse.

D.C. Code § 22-3805. Right to counsel.

A patient shall have the right to have the assistance of counsel at every stage of the proceeding under this chapter. Before the court appoints psychiatrists pursuant to § 22-3806 it shall advise the patient of his or her right to counsel and shall assign counsel to represent him or her unless the patient is able to obtain counsel or elects to proceed without counsel.

D.C. Code § 22-3806. Examination by psychiatrists.

(a) When a statement has been filed with the clerk of any court pursuant to § 22-3804, such court shall appoint 2 qualified psychiatrists to make a personal examination of the patient. The patient shall be required to answer questions asked by the psychiatrists under penalty of contempt of court. Each psychiatrist shall file a written report of the examination, which shall include a statement of his or her conclusion as to whether the patient is a sexual psychopath.

(b) The counsel for the patient shall have the right to inspect the reports of the examination of the patient. No such report and no evidence resulting from the personal examination of the patient shall be admissible against him or her in any judicial proceeding except a proceeding under this chapter to determine whether the patient is a sexual psychopath.

D.C. Code § 22-3807. When hearing is required.

If, in their reports filed pursuant to § 22-3806, both psychiatrists state that the patient is a sexual psychopath, or if both state that they are unable to reach any conclusion by reason of the partial or complete refusal of the patient to submit to thorough examination, or if one states that the patient is a sexual psychopath and the other states that he or she is unable to reach any conclusion by reason of the partial or complete refusal of the patient to submit to thorough examination, then the court shall conduct a hearing in the manner provided in § 22-3808 to determine whether the patient is a sexual psychopath. If, on the basis of the reports filed, the court is not required to conduct such a hearing, the court shall

enter an order dismissing the proceeding under this chapter determine whether the patient is a sexual psychopath.

D.C. Code § 22-3808. Hearing; commitment.

Upon the evidence introduced at a hearing held for that purpose, the court shall determine whether or not the patient is a sexual psychopath. Such hearing shall be conducted without a jury unless, before such hearing and within 15 days after the date on which the second report is filed pursuant to § 22-3806, a jury is demanded by the patient or by the officer filing the statement. The rules of evidence applicable in judicial proceedings in the court shall be applicable to hearings pursuant to this section; but, notwithstanding any such rule, evidence of conviction of any number of crimes the commission of which tends to show that the patient is a sexual psychopath and of the punishment inflicted therefor shall be admissible at any such hearing. The patient shall be entitled to an appeal as in other cases. If the patient is determined to be a sexual psychopath, the court shall commit him or her to an institution to be confined there until released in accordance with § 22-3809.

D.C. Code § 22-3809. Parole; discharge.

Any person committed under this chapter may be released from confinement when an appropriate supervisory official finds that he or she has sufficiently recovered so as to not be dangerous to other persons, provided if the person to be released be one charged with crime or undergoing sentence therefor, that official shall give notice thereof to the judge of the criminal court and deliver him or her to the court in obedience to proper precept.

D.C. Code § 22-3810. Stay of criminal proceedings.

Any statement filed in a criminal proceeding pursuant to subsection (b) or (c) of § 22-3804 shall stay such criminal proceeding until whichever of the following first occurs:

- (1) The proceeding under this chapter to determine whether the patient is a sexual psychopath is dismissed pursuant to § 22-3807 or withdrawn;
- (2) It is determined pursuant to § 22-3808 that the patient is not a sexual psychopath; or
- (3) The patient is discharged from an institution pursuant to § 22-3809.

D.C. Code § 22-3811. Criminal law unchanged.

Nothing in this chapter shall alter in any respect the tests of mental capacity applied in criminal prosecutions under the laws of the District of Columbia.

D.C. Code § 22-3901. Definitions.

For the purposes of this chapter, the term:

(1) "Convicted" means having received a verdict, or a finding, of guilt in a criminal proceeding, adjudicated as being delinquent in a juvenile proceeding, or having entered a plea of guilty or nolo contendere.

(2) "HIV test" means blood testing for the human immunodeficiency virus ("HIV") or any other identified causative agent of the acquired immune deficiency syndrome ("AIDS").

(3) "Mayor" means the Mayor of the District of Columbia, or his or her designee.

(4) "Offense" means any prohibited activity involving a sexual act that includes contact between the penis and the vulva or the penis and the anus, however slight, or contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(5) "Victim" means a person injured by the commission of an offense, and includes the parent or legal guardian of the victim, if the victim is a minor, or the spouse, domestic partner, or child of a victim, if the victim is deceased or incapacitated.

D.C. Code § 22-3902. Testing and counseling.

(a) Upon the request of a victim, the court shall order any individual convicted of an offense, as defined by § 22-3901, to furnish a blood sample to be tested for the presence of HIV.

(b) The court shall promptly notify the Mayor of any court order for an HIV test. Upon receipt of a court order for an HIV test, the Mayor shall promptly collect a blood sample from the convicted individual and conduct an HIV test on the blood sample.

(c) After conducting the HIV test, the Mayor shall promptly notify the victim and the convicted individual of the results of the HIV test. The Mayor shall not disclose the results of the HIV test without also providing, offering, or arranging for appropriate counselling and referral for appropriate health care and support services to the victim and the convicted individual.

(d) The victim may disclose the results of the HIV test to any other individual to protect the health and safety of the victim, the victim's sexual partners, or the victim's family.

(e) The result of any HIV test conducted under this section shall not be admissible as evidence of guilt or innocence in any criminal proceeding.

D.C. Code § 22-3903. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement this chapter.

(b) The rules shall include provisions regarding notification to the victim of his or her right to request an HIV test, confidentiality of the test results, free counselling for the victim and the convicted individual concerning HIV testing and HIV disease, and referral for appropriate health care and supportive services.

D.C. Code § 22-4001. Definitions.

For the purposes of this chapter, the term:

(1) "Agency" means the Court Services and Offender Supervision Agency for the District of Columbia, established pursuant to § 24-133 or, until that agency assumes its duties, the Trustee appointed under § 24-132(a).

(2) "Attends school" means being enrolled on a full-time or part-time basis in any type of public or private educational institution.

(3) (A) "Committed a registration offense" means:

(i) Was convicted or found not guilty by reason of insanity of a registration offense; or

(ii) Was determined to be a sexual psychopath under §§ 22-3803 through 22-3811.

(B) A person is not deemed to have committed a registration offense for purposes of this chapter, if the disposition described in subparagraph (A) of this paragraph has been reversed or vacated, or if the person has been pardoned for the offense on the ground of innocence.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "In custody or under supervision" means:

(A) Detained, incarcerated, confined, hospitalized, civilly committed, on probation, on parole, on supervised release, or on conditional release because of:

(i) Being convicted of or found not guilty by reason of insanity of an offense under the District of Columbia Official Code; or

(ii) A sexual psychopath determination under §§ 22-3803 through 22-3811; or

(B) In any comparable status under the jurisdiction of the District of Columbia pursuant to subchapter II of Chapter 4 of Title 24, Chapter 10 of Title 24, or any other transfer agreement between the District of Columbia and another jurisdiction.

(6) "Lifetime registration offense" means:

(A) First or second degree sexual abuse as proscribed by § 22-3002 or § 22-3003; forcible rape as this offense was proscribed until May 23, 1995 by § 22-4801 [repealed]; or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) where the offense was forcible;

(B) First degree child sexual abuse as proscribed by § 22-3008 committed against a person under the age of 12 years, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by § 22-4801 [repealed] committed against a person under the age of 12 years, or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) committed against a person under the age of 12 years;

(C) Murder or manslaughter as proscribed by § 22-2101 committed before, during or after engaging in or attempting to engage in a sexual act or sexual contact, or rape as this offense was proscribed until May 23, 1995 by § 22-4801 [repealed];

(D) An attempt or conspiracy to commit an offense as proscribed by § 22-1803 or § 22-1805a or § 22-3018 or assault with intent to commit rape, carnal knowledge, statutory rape, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, as proscribed by § 22-401, which involved an attempt, conspiracy or assault with intent to commit an offense described in subparagraphs (A) through (C) of this paragraph; and

(E) An offense under the law of any state, under federal law, or under the law of any other jurisdiction, which involved conduct that would constitute an offense described in subparagraphs (A) through (D) of this paragraph if committed in the District of Columbia or prosecuted under the District of Columbia Official Code, or conduct which is substantially similar to that described in subparagraphs (A) through (D) of this paragraph.

(7) "Minor" means a person under 18 years of age.

(8) "Registration offense" means:

(A) An offense under Chapter 30 of this title;

(B) Forcible rape, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by § 22-4801 [repealed]; indecent acts with children as this offense was proscribed until May 23, 1995 by § 22-3801(a); enticing a child as this offense was proscribed until May 23, 1995 by § 22-3801(b); or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) where the offense was forcible or committed against a minor;

(C) Any of the following offenses where the victim is a minor: acts proscribed by § 22-1312 (lewd, indecent, or obscene acts), acts proscribed by § 22-2201 (obscenity), acts proscribed by § 22-3102 (sexual performances using minors), acts proscribed by § 22-1901 (incest), acts proscribed by § 22-2001 (kidnapping), and acts proscribed by §§ 22-2701, 22-2701.01, 22-2703, 22-2704, 22-2705 to 22-2712, 22-2713 to 22-2720, 22-2722 and 22-2723 (prostitution; pandering);

(D) Any offense under the District of Columbia Official Code that involved a sexual act or sexual contact without consent or with a minor, assaulting or threatening another with the intent to engage in a sexual act or sexual contact or with the intent to commit rape, or causing the death of another in the course of, before, or after engaging or attempting to engage in a sexual act or sexual contact or rape;

(E) An attempt or a conspiracy to commit a crime, as proscribed by § 22-1803 or § 22-1805a which involved an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or assault with intent to commit rape, carnal knowledge, statutory rape, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, as proscribed by § 22-401;

(F) Assault with intent to commit any other crime, as proscribed by § 22-403, or kidnapping or burglary, as proscribed by § 22-801 or § 22-2001 where the offense involved an intent, attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph;

(G) An offense under the law of any state, under federal law, or under the law of any other jurisdiction, which involved conduct that would constitute an offense described in subparagraphs (A) through (F) of this paragraph if committed in the District of Columbia or prosecuted under the District of Columbia Official Code, or conduct which is substantially similar to that described in subparagraphs (A) through (F) of this paragraph; and

(H) Any other offense where the offender agrees in a plea agreement to be subject to sex offender registration requirements.

(9) "Sex offender" means a person who lives, resides, works, or attends school in the District of Columbia, and who:

(A) Committed a registration offense on or after July 11, 2000;

(B) Committed a registration offense at any time and is in custody or under supervision on or after July 11, 2000;

(C) Was required to register under the law of the District of Columbia on the day before July 11, 2000; or

(D) Committed a registration offense at any time in another jurisdiction and, within the registration period, enters the District of Columbia to live, reside, work or attend school.

(10) "Sexual act" has the meaning stated in § 22-3001(8).

(11) "Sexual contact" has the meaning stated in § 22-3001(9).

(12) "State" means a state of the United States, or any territory, commonwealth, or possession of the United States.

(13) "Works" means engaging in any type of full-time or part-time employment or occupation, whether paid or unpaid, for a period of time exceeding 14 calendar days or for an aggregate period of time exceeding 30 days during any calendar year.

D.C. Code § 22-4002. Registration period.

(a) Except as set forth in subsection (b) of this section, the registration period shall start when a disposition described in § 22-4001(3)(A) occurs and continue until the expiration of any time being served on probation, parole, supervised release, conditional release, or convalescent leave, or 10 years after the sex offender is placed on probation, parole, supervised release, conditional release, or convalescent leave, or is unconditionally released from a correctional facility, prison, hospital or other place of confinement, whichever is latest, except that:

(1) The Agency may give a sex offender credit for the time the sex offender was registered in another jurisdiction;

(2) The Agency may deny a sex offender credit for any time in which the sex offender is detained, incarcerated, confined, civilly committed, or hospitalized and for any time in which a sex offender was registered prior to a revocation of probation, parole, supervised release, conditional release, or convalescent leave; and

(3) The registration period is tolled for any time the sex offender fails to register or otherwise fails to comply with the requirements of this chapter.

(b) The registration period shall start when a disposition described in § 22-4001(3)(A) occurs and continue throughout the lifetime of a sex offender who:

(1) Committed a registration offense that is a lifetime registration offense;

(2) Was determined to be a sexual psychopath under §§ 22-3803 through 22-3811;

(3) Has been subject on 2 or more occasions to a disposition described in § 22-4001(3)(A) that involved a felony registration offense or a registration offense against a minor; or

(4) Has been subject to 2 or more dispositions described in § 22-4001(3)(A), relating to different victims, each of which involved a felony registration offense or a registration offense against a minor.

(c) The Agency may suspend the requirement to register or any other requirement under this chapter during any period of time in which a sex offender is detained, incarcerated, confined, civilly committed or hospitalized in a secure facility.

(d) Other than a suspension under subsection (c) of this section, a sex offender shall not be eligible for relief from the registration requirements.

D.C. Code § 22-4003. Certification duties of the Superior Court.

(a) Upon a finding that a defendant committed a registration offense, the Court shall enter an order certifying that the defendant is a sex offender and that the defendant will be subject to registration for the period set forth in § 22-4002(a) or (b). The Court shall advise the sex offender of that person's duties under this chapter, shall order the sex offender to report to the Agency to register as required by the Agency and to comply with the requirements of this chapter, and shall require the sex offender to read and sign the order.

(b) The Court shall provide to the Agency a copy of the certification and order and such other records and information as will assist in the registration of the sex offender.

(c) In any case where the Court orders the release of a sex offender into the community following a period of detention, incarceration, confinement, civil commitment, or hospitalization, the Court shall:

(1) If the sex offender has been certified as a sex offender under subsection (a) of this section, provide the sex offender with a copy of the order required under

subsection (a) of this section and require the sex offender to read and sign the copy of the order; or

(2) If the sex offender has not been certified as a sex offender under subsection (a) of this section, follow the procedures set forth under subsection (a) of this section.

(d) The applicability of the requirements of this chapter to a person otherwise subject to this chapter does not depend on the Court's making a certification under subsection (a) of this section. The Court is required to enter an order certifying that a person is a sex offender only when --

(1) A defendant is found in a proceeding before the Court to have committed a registration offense;

(2) The Court, on or after July 11, 2000, orders the release of a sex offender into the community following a period of detention, incarceration, confinement, civil commitment, or hospitalization;

(3) The government makes a motion for such a certification and the Court grants the motion; or

(4) A motion is filed as authorized under § 22-4004 and the Court denies the motion.

D.C. Code § 22-4004. Dispute resolution procedures in the Superior Court.

(a) (1) A person, other than a person for whom a certification has been made under § 22-4003(a), may seek review of a determination by the Agency that the person is required to register or to register for life under this chapter if:

(A) The determination depends on a finding or findings which are not apparent from the disposition described in § 22-4001(3)(A), including, but not limited to, a finding not apparent from the disposition as to:

(i) Whether the victim of an offense was a minor or under 12 year of age;

(ii) Whether certain sexual acts or contacts were forcible;

(iii) Whether the exemption of § 22-4016(b) applies; or

(iv) Whether the standards under § 22-4001(6)(E) or (8)(G) for coverage offenses under the laws of other jurisdictions are satisfied; or

(B) The person asserts that the records establishing that he or she was convicted or found not guilty by reason of insanity of a registration offense or

offenses or a lifetime registration offense or offenses, or that he or she was determined to be a sexual psychopath as provided in § 22-4001(3)(A)(ii), are erroneous.

(2) In order to seek review of a determination, as authorized by paragraph (1) of this subsection, the person shall:

(A) At the time the person is first informed by the Agency that it has determined that the person must register as a sex offender or must register as a sex offender for life, provide the Agency with a notice of intent to seek review of the determination; and

(B) Within 30 days of providing the notice of intent described in subparagraph (A) of this paragraph, file a motion in the Court setting forth the facts which he or she disputes and attaching any documents or affidavits upon which he or she intends to rely. The Court shall decide the motion within 60 days of its filing.

(3) If a person fails to follow the procedures set forth in paragraph (2) of this subsection, he or she may nevertheless seek review of a determination, as authorized by paragraph (1) of this subsection, but only for good cause shown and to prevent manifest injustice, by filing a motion within 3 years of the date on which a determination is made by the Agency that the person must register as a sex offender or must register as a sex offender for life. The release and dissemination of information concerning the person, including community notification, as authorized by this chapter for sex offenders will, however, proceed unless and until the Court issues an order that the person is not required to register as a sex offender.

(b) Unless the motion described in subsection (a) of this section and attached documents and affidavits conclusively show that the person is entitled to no relief, the Court shall cause notice thereof to be served upon the prosecuting attorney.

(c) (1) The Court may, in its sole discretion, decide a motion made under subsection (a) of this section on the basis of the motion, affidavits, the files and records of the case, other written documents, proffers of the parties, or an evidentiary hearing. If the Court determines that a hearing is necessary to decide the issue or if the interests of justice otherwise require, the Court shall appoint counsel for the person if he or she is not represented by counsel and meets the financial criteria for the appointment of counsel.

(2) If the Court concludes that the person is required to register under this chapter, the Court shall follow the procedures set forth in § 22-4003(a) and (b). If the Court concludes that the person is not required to register under this chapter or is not required to register for life under this chapter, the Court shall enter an order certifying that the person is not required to register under this chapter or is not

required to register for life under this chapter and shall provide the Agency with a copy of that order.

D.C. Code § 22-4005. Duties of the Department of Corrections.

(a) Immediately before the release into the community of a sex offender in its custody or under its supervision, or immediately before the transfer of a sex offender to a halfway house, whichever is earlier, the Department of Corrections shall notify the Agency of the sex offender's proposed release, and shall provide to the Agency such records and information as will assist the Agency in carrying out its responsibilities under this chapter.

(b) Immediately before the release into the community of a sex offender in its custody or under its supervision or immediately before a sex offender transfers to a halfway house, whichever is earlier, the Department of Corrections shall inform the sex offender orally and in writing of the duty to register and of the time when and place where he or she is to appear to register and shall require the sex offender to read and sign the notice.

D.C. Code § 22-4006. Duties of the Department of Mental Health.

(a) The Agency shall have the authority to notify the Department of Mental Health in writing of those sex offenders in the custody or under the supervision of the Department of Mental Health who are required to register pursuant to this chapter.

(b) With respect to sex offenders for whom notice has been given pursuant to subsection (a) of this section, the Department of Mental Health shall inform the Agency when a sex offender:

(1) Is first granted unaccompanied access to the hospital grounds or is placed on convalescent leave;

(2) If first conditionally or unconditionally released; or

(3) Is on unauthorized leave.

(c) The information provided to the Agency by the Department of Mental Health shall include:

(1) The name of and other identifying information about a sex offender, including a physical description and photograph, if available;

(2) The action taken under subsection (b) of this section;

(3) The date on which the action was taken;

(4) To the extent known, the address at which the sex offender is living or intends to live, works or intends to work, or attends school or intends to attend school; and

(5) Administrative information that may assist the Agency or the Metropolitan Police Department in locating the sex offender.

(d) The Agency and the Metropolitan Police Department are authorized to make further disclosures of the information provided by the Department of Mental Health pursuant to this section as necessary to ensure compliance with this chapter and to prosecute violations of this chapter.

D.C. Code § 22-4007. Registration functions of the Court Services and Offender Supervision Agency.

(a) The Agency shall have the authority to adopt and implement procedures and requirements for the registration of sex offenders under this chapter. The procedures and requirements may include, but need not be limited to, requirements that a responsible officer or official shall:

(1) Inform the sex offender of the duty to register and the penalties for failure to register;

(2) Obtain the information required for registration, which may include such information as the sex offender's name, all aliases used, date of birth, sex, race, height, weight, eye color, identifying marks and characteristics, driver's license number, social security number, PDID, DCDC, FBI and NCIC numbers, home address or expected place of residence, and any current or expected place of employment or school attendance;

(3) Obtain a photograph and set of fingerprints of the sex offender;

(4) Obtain a detailed description of the offense on the basis of which the sex offender is required to register, the victim impact statement, the date of conviction or other disposition related to the offense, and any sentence imposed;

(5) Obtain the sex offender's criminal record and a detailed description of any relevant offense;

(6) Inform the sex offender of the duty to report any change of address, and of any duty to update other registration information, and the procedures for reporting such changes;

(7) Inform the sex offender that if the sex offender moves to another state, or works or attends school in another state, then the sex offender also must report this information, and must register in any such state;

(8) Require the sex offender to read and sign a form stating that the duties of the sex offender under this chapter have been explained; and

(9) Inform a person that if the person disagrees with the determination that he or she is required to register or to register for life under this chapter, he or she must follow the procedures set forth in § 22-4004.

(b) The Agency shall have the authority to direct that a sex offender meet with a responsible officer or official at a reasonable time for the purpose of complying with any requirement adopted by the Agency under this chapter.

(c) The Agency shall have the authority to ensure that the sex offender registry is updated regularly and that outdated information is promptly removed from publicly available information.

D.C. Code § 22-4008. Verification functions of the Court Services and Offender Supervision Agency.

(a) The Agency shall have the authority to adopt and implement procedures and requirements for verification of address information and other information required for registration under this chapter. The procedures and requirements may include, but need not be limited to, requirements that the sex offender:

(1) Verify address information or other information at least annually, or at more frequent intervals as specified by the Agency;

(2) Return address verification forms;

(3) Appear in person for purposes of verification;

(4) Cooperate in the taking of fingerprints and photographs, as part of the verification process; and

(5) Update any information that has changed since any preceding registration or verification as part of the verification process.

(b) The Agency shall have the authority to immediately notify the Metropolitan Police Department if the Agency is unable to verify the address of or locate a sex offender who is required to register under this chapter or if the sex offender otherwise fails to comply with any requirements of this chapter.

D.C. Code § 22-4009. Change of address or other information.

(a) The Agency shall have the authority to adopt and implement procedures and requirements for the reporting by sex offenders of changes in address and changes in other information required for registration.

(b) (1) The Agency shall have the authority to notify the responsible registration agency or authorities in any other jurisdiction to which a sex offender moves, or in which a sex offender works or attends school.

(2) The Agency shall have the authority to provide to the responsible agency or authorities in the other jurisdiction all information concerning the sex offender that may be necessary or useful for registration of the sex offender in that jurisdiction, or for purposes of risk assessment, community notification, or other comparable functions in that jurisdiction.

D.C. Code § 22-4010. Maintenance and release of sex offender registration information by the Court Services and Offender Supervision Agency.

(a) The Agency shall have the authority to maintain and operate the sex offender registry for the District of Columbia, including the authority to maintain the information obtained on sex offenders.

(b) The Agency shall have the authority to enter the information obtained on sex offenders into appropriate record systems and databases and:

(1) Ensure that conviction data and fingerprints are promptly transmitted to the Federal Bureau of Investigation;

(2) Participate in the National Sex Offender Registry on behalf of the District, including providing to the Federal Bureau of Investigation all information required for such participation;

(3) Ensure that information concerning sex offenders is promptly provided or made available to the Metropolitan Police Department, and to other law enforcement and governmental agencies as appropriate; and

(4) Inform the Metropolitan Police Department that a person has provided the Agency with a notice of intent to seek review of the determination that he or she must register under this chapter in conformity with § 22-4004(a)(2)(A) and that registration information on the person shall not be made publicly available unless and until the Agency informs the Metropolitan Police Department that the Court has certified that the person must register under this chapter, the person has failed to file a motion in the Court within the time allowed by § 22-4004(a)(2)(B), or the person's motion seeking review of the determination has been withdrawn or dismissed.

(c) This chapter does not authorize the Agency to make sex offender registration information publicly available, except as authorized by the rules promulgated under § 22-4011(g), or through the provision of such information to the Metropolitan Police Department or other agencies or authorities as authorized by this chapter.

D.C. Code § 22-4011. Community notification and education duties of the Metropolitan Police Department.

(a) The Metropolitan Police Department shall have the authority to release and disseminate the information obtained on sex offenders. The authorized activities of the Metropolitan Police Department under this section include, but are not limited to, active and passive notification to all or parts of the community concerning a sex offender, including but not limited to:

(1) Victims and witnesses;

(2) Public and private educational institutions, day care entities and other institutions or organizations that provide services to or employ individuals who may be victimized by a sex offender;

(3) Members of the public or governmental agencies requesting information on identified individuals for employment or foster care background checks or similar purposes;

(4) The public at large; and

(5) Any unit of the Metropolitan Police Department and other law enforcement agencies.

(b) (1) (A) Active notification under this section refers to affirmatively informing persons or entities about sex offenders. Authorized means of active notification include, but are not limited to, community meetings, flyers, telephone calls, door-to-door contacts, electronic notification, direct mailings, and media releases.

(B) Passive notification under this section refers to making information about sex offenders available for public inspection or in response to inquiries. Authorized means of passive notification include, but are not limited to, Internet postings, making registration lists and information about registrants available for inspection at police stations and other locations, and responding to written or oral inquiries in person, through the mail, by telephone, or through email or other electronic means. The Metropolitan Police Department shall develop and implement a system to make available for public inspection by means of the

Internet all or part of the portions of the sex offender registry relating to Class A and Class B offenders, as defined in paragraph (2) of this subsection.

(2) For purposes of this section:

(A) Class A offenders shall consist of sex offenders who are required to register for life as provided in § 22-4002(b);

(B) Class B offenders shall consist of sex offenders, other than Class A offenders, who are required to register for an offense against a minor, or who are required to register for sexual abuse of a ward or sexual abuse of a patient or client under Chapter 30 of this title; and

(C) Class C offenders shall consist of sex offenders other than Class A and Class B offenders.

(3) Passive notification may be carried out concerning any sex offender, except that information made available under this section for public inspection by means of the Internet shall be limited to information on Class A and Class B offenders. Active notification concerning Class A offenders may be provided to any person or entity. Active notification concerning Class B and Class C offenders may be provided to:

(A) Law enforcement agencies;

(B) Organizations that deal with or provide services to vulnerable populations or victims of sexual offenses, including but not limited to schools, day care centers, other child care and youth-serving organizations, facilities caring for or providing services to the elderly or persons with impairments, shelters, churches, and victims rights and victims services entities;

(C) Victims of and witnesses to a sex offender's crime or crimes and parents, guardians, and family member of such persons; and

(D) Any person where the Metropolitan Police Department has information indicating that the sex offender may pose a specific risk to that person, and parents, guardians, and family members of such a person.

(c) The Metropolitan Police Department shall conduct community education about the appropriate use of sex offender registration information.

(d) All publicly disseminated sex offender registration information shall contain a warning that crimes committed against sex offenders will be prosecuted to the full extent of the law.

(e) This section does not limit the authority of the Metropolitan Police Department to release information concerning any person, except that the identity of a victim of an offense requiring registration shall be treated as confidential information as provided in the regulations issued under subsection (g) of this section.

(f) If the Agency informs the Metropolitan Police Department that a person has provided the Agency with a notice of intent to seek review of the determination that he or she must register under this chapter in conformity with § 22-4004(a)(2)(A), the Metropolitan Police Department shall not release registration information on the person to the public unless and until the Agency informs the Metropolitan Police Department that the Court has certified that the person must register under this chapter, the person has failed to file a motion in the Court within the time allowed by § 22-4004(a)(2)(B), or the person's motion for review of the determination has been withdrawn or dismissed.

(g) Within 210 days of the effective date of this chapter, the Mayor shall promulgate proposed rules, in accordance with subchapter I of Chapter 5 of Title 2, to carry out all functions of this chapter. Not less than 75 days prior to the proposed effective date of the proposed rules, the Mayor shall submit them to the Council for a 30-day review period, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed rules, or amendments to existing rules in whole or in part, by resolution within this 30-day review period, the proposed rules or amendments to existing rules shall be deemed approved.

D.C. Code § 22-4012. Interagency coordination.

(a) The Agency may request that any agency of the District of Columbia, of another state, or of the United States provide assistance in carrying out the functions described in this chapter.

(b) Notwithstanding any other law, all agencies of the District of Columbia shall:

(1) Have the authority to provide any requested assistance to the Agency in carrying out the functions described in this chapter;

(2) Make available to the Agency information requested by the Agency for the purpose of identifying sex offenders and otherwise carrying out its functions under this chapter; and

(3) Cooperate with the Agency in posting notices and making available information concerning registration requirements in locations where persons entering the District from other jurisdictions may apply for driver's licenses, motor vehicle tags and inspections, housing, or other public assistance or benefits.

(c) Except for the disclosure of information authorized by § 22-4006, nothing in this chapter shall supersede the non-disclosure provisions of Chapter 12 of Title 7.

D.C. Code § 22-4013. Immunity.

(a) The District of Columbia government and its agencies, officials, employees, and agents and the United States government and its agencies, officials, employees, and agents shall be immune from suit for any claim arising from any good faith act of omission under this chapter.

(b) Notwithstanding subsection (a) of this section, the District of Columbia government may be held liable for the negligent disclosure of information to the public in violation of this chapter. A person subjected to such a violation may bring suit in the Court for injunctive or declaratory relief to abate a continuing violation, and for compensatory damages. The action under this subsection shall be the exclusive remedy under the law of the District of Columbia for the negligent disclosure of information in violation of this chapter. Except as provided by this subsection or § 22-4004(a), nothing in this chapter shall be construed to create any private right of action or give rise to any rights enforceable by injunction, mandamus, or otherwise.

(c) If the Court has made a determination under § 22-4003 or § 22-4004 that a person must register or must register for life, or if the Agency has made such a determination and the person has failed to seek review of the determination in conformity with § 22-4004, then the person shall be barred in a suit under this section from contesting the determination or any fact, finding, or issue that was resolved by or necessary to the determination.

(d) Nothing in this section shall be construed as limiting any other defense or immunity that would otherwise be available to the District of Columbia government, its agencies, officials, employees, or agents or the United States government, its agencies, officials, employees, or agents, or to obligate the District of Columbia government or the United States government to represent or indemnify any official, employee, or agent where such person acts beyond the scope of his or her authority.

D.C. Code § 22-4014. Duties of sex offenders.

During the registration period, a sex offender shall, in the time and manner specified by the Agency:

(1) Register with the Agency as a sex offender;

(2) Provide any information required for registration, and cooperate in photographing and fingerprinting;

- (3) Report any change of residence or other change in registration information;
- (4) Periodically verify address and such other registration information as the Agency may specify, including complying with any requirement to return address verification forms or appear in person for the purpose of verification;
- (5) Report if the sex offender is moving to another state, or works or attends school in another state, and register in any such state;
- (6) Acknowledge receipt of information concerning the sex offender's duties under this chapter, including reading and signing a form or forms stating that these duties have been explained to the sex offender; and
- (7) Meet with responsible officers and officials for the purpose of carrying out any requirements adopted by the Agency under this chapter.

D.C. Code § 22-4016. No change in age of consent; registration not required for offenses between consenting adults.

- (a) This chapter does not change the age of consent for any sexual conduct under any law of the District of Columbia.
- (b) Notwithstanding any other provision of this chapter, the following do not constitute registration offenses:
 - (1) Any sexual offense between consenting adults or an attempt, conspiracy or solicitation to commit such an offense, except for offenses to which consent is not a defense as provided in § 22-3017;
 - (2) Any misdemeanor offense that involved a person's sexual touching or attempted or solicited sexual touching of an undercover law enforcement officer where the person believed that the officer was an adult; and
 - (3) Any misdemeanor offense committed against an adult, except where the offender agrees in a plea agreement to be subject to sex offender registration requirements.

D.C. Code § 22-4017. Freedom of Information Act exception.

Except for records made public according to the regulations promulgated by the Mayor pursuant to § 22-4011(g), no sex offender registration information shall be available as a public record under § 2-532.

D.C. Code § 22-4131. Definitions.

For the purposes of this chapter, the term:

(1) "Actual innocence" or "actually innocent" means that the person did not commit the crime of which he or she was convicted.

(2) "Biological material" means the contents of a sexual assault examination kit, bodily fluids (including, but not limited to, blood, semen, saliva, and vaginal fluid), hair, skin tissue, fingernail scrapings, bone, or other human DNA source matter which apparently derived from the perpetrator of a crime or, under circumstances that may be probative of the perpetrator's identity, apparently derived from the victim of a crime. This definition applies equally to material that is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, or cigarettes, and to material that is recovered from evidence and thereafter maintained separately from that evidence, including, but not limited to, on a slide, on a swab, in cuttings, or in scrapings.

(3) "Crime of violence" means the crimes cited in § 23-1331(4).

(4) "DNA" means deoxyribonucleic acid.

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

(6) "Law enforcement agencies" means the Metropolitan Police Department, the Corporation Counsel for the District of Columbia, prosecutors, or any other governmental agency that has the authority to investigate, make arrests for, or prosecute or adjudicate District of Columbia criminal or delinquency offenses. The term "law enforcement agencies" shall include law enforcement agencies that have entered into cooperative agreements with the Metropolitan Police Department pursuant to § 5-133.17, to the extent the law enforcement agency is acting pursuant to such a cooperative agreement.

(7) "New evidence" means evidence that:

(A) Was not personally known and could not, in the exercise of reasonable diligence, have been personally known to the movant at the time of the trial or the plea proceeding;

(B) Was personally known to the movant at the time of the trial or the plea proceeding, but could not be produced at that time because:

(i) The presence or the testimony of a witness could not be compelled or, in the exercise of reasonable diligence by the movant, otherwise obtained; or

(ii) Physical evidence, in the exercise of the movant's reasonable diligence, could not be obtained; or

(C) Was obtained as a result of post-conviction DNA testing.

D.C. Code § 22-4132. Pre-conviction DNA testing.

(a) Prior to trial for or the entry of a plea to a crime of violence, the defendant shall be informed in open court of physical evidence seized or recovered in the investigation or prosecution of the case which may contain biological material and of the results of any DNA testing that has been performed on such evidence.

(b) A defendant charged with a crime of violence shall be informed in open court:

(1) That he or she may request or waive independent DNA testing prior to trial or the entry of a plea if:

(A) (i) DNA testing has resulted in the inclusion of the defendant as a source of the biological material; or

(ii) Under circumstances that are probative of the perpetrator's identity, DNA testing has resulted in the inclusion of the victim as a source of the biological material; and

(B) There is sufficient biological material to conduct another DNA test;

(2) That he or she may request or waive DNA testing of biological material prior to trial or the entry of a plea if the biological material has not been subjected to DNA testing; and

(3) Of the potential evidentiary value of DNA evidence in the defendant's case and the consequences of requesting or waiving DNA testing.

(c) A defendant who makes a knowing, intelligent, and voluntary waiver of DNA testing or independent DNA testing pursuant to subsection (b) of this section prior to trial or the entry of a plea is not eligible for post-conviction DNA testing under § 22-4133 unless the defendant is entitled to have the conviction to which the DNA evidence relates set aside under § 23-110 or Rule 32 of the Superior Court Rules of Criminal Procedure.

D.C. Code § 22-4133. Post-conviction DNA testing.

(a) A person in custody pursuant to the judgment of the Superior Court of the District of Columbia for a crime of violence may, at any time after conviction or adjudication as a delinquent, apply to the court for DNA testing of biological material that:

(1) Was seized or recovered as evidence in the investigation or prosecution that resulted in the conviction or adjudication as a delinquent or can otherwise be identified as evidence in the case;

(2) Is in the actual or constructive possession of the District of Columbia or the United States, or has been retained by any other person or entity under conditions sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material respect; and

(3) (A) Was not previously subject to DNA testing because DNA testing was not readily available in criminal cases in the District of Columbia at the time of conviction or adjudication as a delinquent;

(B) Was not previously subjected to the type of DNA testing being requested and the new type of DNA testing would have a reasonable probability of providing a more probative result than tests previously conducted;

(C) Was not previously subjected to DNA testing because of circumstances that would entitle the applicant to relief under § 23-110 or Rule 32 of the Superior Court Rules of Criminal Procedure; or

(D) Was not previously subjected to DNA testing because it is new evidence as defined in § 22-4131(7)(A) or (B).

(b) The application shall:

(1) Include an affidavit by the applicant, under penalty of perjury, stating that the applicant is actually innocent of the crime that is the subject of the application; provided, that the denial of an application for testing or an inconclusive result produced by DNA testing shall not be admissible in any prosecution based on the filing of a false affidavit;

(2) Identify the specific evidence for which DNA testing is requested;

(3) Set forth the reason that the requested DNA testing was not previously obtained; and

(4) Explain how the DNA evidence would help establish that the applicant is actually innocent despite having been convicted at trial or having pled guilty.

(c) Unless the application and files and records of the case conclusively show that the applicant is entitled to no relief, the court shall notify the prosecution of an application made pursuant to subsection (a) of this section and shall afford the prosecution an opportunity to respond. Upon receiving notice of an application made pursuant to subsection (a) of this section, the prosecution shall take the necessary steps to ensure that any remaining biological material that was obtained

in connection with the case or investigation is preserved pending the completion of proceedings under this section.

(d) The court shall order DNA testing pursuant to an application made under subsection (a) of this section upon a determination that the application meets the criteria set forth in subsections (a) and (b) of this section and there is a reasonable probability that testing will produce non-cumulative evidence that would help establish that the applicant was actually innocent of the crime for which the applicant was convicted or adjudicated as delinquent.

(e) (1) The cost of DNA testing ordered pursuant to subsection (d) of this section shall be paid by the District of Columbia, to the same extent provided for in § 11-2605, if the court finds that the applicant is financially unable to pay for the testing. If the applicant is financially able to pay for the testing, the cost shall be borne by the applicant.

(2) The court may appoint counsel for an applicant for DNA testing pursuant to this section who is financially unable to obtain adequate representation.

(3) The provisions of Chapter 26 of Title 11 shall apply with equal force to applications made pursuant to this section.

(f) An order granting or denying relief under this section is a final order for purposes of appeal.

D.C. Code § 22-4135. Motion to vacate a conviction or grant a new trial on the ground of actual innocence.

(a) A person convicted of a criminal offense in the Superior Court of the District of Columbia may move the court to vacate the conviction or to grant a new trial on grounds of actual innocence based on new evidence.

(b) Notwithstanding the time limits in any other provision of law, a motion for relief under this section may be made at any time.

(c) The motion shall set forth specific, non-conclusory facts:

(1) Identifying the specific new evidence;

(2) Establishing how that evidence demonstrates that the movant is actually innocent despite having been convicted at trial or having pled guilty; and

(3) Establishing why the new evidence is not cumulative or impeaching.

(d) (1) The motion shall include an affidavit by the movant, under penalty of perjury, stating that movant is actually innocent of the crime that is the subject of

the motion, and that the new evidence was not deliberately withheld by the movant for purposes of strategic advantage.

(2) The denial of a motion for relief under this section shall not be admissible in any prosecution based on the filing of a false affidavit.

(e) (1) Unless the motion and files and records of the case conclusively show that the movant is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto.

(2) The court may appoint counsel for an indigent movant under this section pursuant to Chapter 26 of Title 11.

(3) The court may entertain and determine the motion without requiring production of the movant at the hearing.

(4) A movant shall be entitled to invoke the processes of discovery available under Superior Court Rules of Criminal Procedure or Civil Procedure, or elsewhere in the usages and principles of law if, and to the extent that, the judge, in the exercise of the judge's discretion and for good cause shown, grants leave to do so, but not otherwise.

(f) A motion for relief made pursuant to this section may be dismissed if the government demonstrates that it has been materially prejudiced in its ability to respond to the motion by the delay in its filing, unless the movant shows that the motion is based on grounds which the movant could not have raised by the exercise of reasonable diligence before the circumstances prejudicial to the government occurred.

(g) (1) In determining whether to grant relief, the court may consider any relevant evidence, but shall consider the following:

(A) The new evidence;

(B) How the new evidence demonstrates actual innocence;

(C) Why the new evidence is or is not cumulative or impeaching;

(D) If the conviction resulted from a trial, and if the movant asserted a theory of defense inconsistent with the current claim of innocence, the specific reason the movant asserted an inconsistent theory at trial; and

(E) If the conviction resulted from a guilty plea, the specific reason the movant pleaded guilty despite being actually innocent of the crime.

(2) If, after considering the factors in paragraph (1) of this subsection, the court concludes that it is more likely than not that the movant is actually innocent of the crime, the court shall grant a new trial.

(3) If, after considering the factors in paragraph (1) of this subsection, the court concludes by clear and convincing evidence that the movant is actually innocent of the crime, the court shall vacate the conviction and dismiss the relevant count with prejudice.

(4) If the conviction resulted from a plea of guilty, and other charges were dismissed as part of a plea agreement, the court shall reinstate any charges of which the defendant has not demonstrated that the defendant is actually innocent.

(h) The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same movant.

(i) An order entered on the motion is a final order for purposes of appeal.

D.C. Code § 22-4151. Qualifying offenses.

(a) The following criminal offenses shall be qualifying offenses for the purposes of DNA collection under the DNA Analysis Backlog Elimination Act of 2000, approved December 19, 2000 (Pub. L. No. 106-546; 114 Stat. 2726) [42 U.S.C. §§ 14135-14135e]:

(1) Any felony;

(2) Any offense for which the penalty is greater than one year imprisonment;

(3) § 22-1312(b) (lewd, indecent, or obscene acts (knowingly in the presence of a child under the age of 16 years));

(4) § 22-2201 (certain obscene activities involving minors);

(5) § 22-3102 (sexual performances using minors);

(6) § 22-3006 (misdemeanor sexual abuse);

(7) § 22-3010.01 (misdemeanor sexual abuse of a child or minor); and

(8) Attempt or conspiracy to commit any of the offenses listed in paragraphs (1) through (7) of this subsection.

(b) DNA collected by an agency of the District of Columbia shall not be searched for the purpose of identifying a family member related to the individual from whom the DNA sample was acquired.

D.C. Code § 22-4201. Technical assistance and research.

There are authorized to be appropriated to the National Institute of Justice in each fiscal year (beginning with fiscal year 1998) such sums as may be necessary for the following activities:

(1) Research and demonstration projects, evaluations, and technical assistance to assess and analyze the crime problem in the District of Columbia, and to improve the ability of the criminal justice and other systems and entities in the District of Columbia to prevent, solve, and punish crimes.

(2) The establishment of a locally-based corporation or institute in the District of Columbia supporting research and demonstration projects relating to the prevention, solution, or punishment of crimes in the District of Columbia, including the provision of related technical assistance.

D.C. Code § 22-4231. Definitions.

For the purposes of this chapter, the term:

(1) "Criminal Justice Coordinating Council" or "CJCC" means the Criminal Justice Coordinating Council for the District of Columbia that was established by and has been operating pursuant to the Memorandum of Agreement dated May 28, 1998.

(2) "Independent agency" shall have the meaning provided that term in § 1-603.01(13).

D.C. Code § 22-4232. Establishment of the Criminal Justice Coordinating Council.

There is established as an independent agency within the District of Columbia government the Criminal Justice Coordinating Council.

D.C. Code § 22-4233. Membership.

(a) The Criminal Justice Coordinating Council shall include the following members:

(1) Mayor, District of Columbia (Chair);

(2) Chairman, Council of the District of Columbia;

(3) Chairperson, Judiciary Committee, Council of the District of Columbia;

(4) Chief Judge, Superior Court of the District of Columbia;

- (5) Chief, Metropolitan Police Department;
- (6) Director, District of Columbia Department of Corrections;
- (7) Attorney General for the District of Columbia;
- (8) Director, Department of Youth Rehabilitation Services;
- (9) Director, Public Defender Service;
- (10) Director, Pretrial Services Agency;
- (11) Director, Court Services and Offender Supervision Agency;
- (12) United States Attorney for the District of Columbia;
- (13) Repealed;
- (14) Director, Federal Bureau of Prisons;
- (15) Chair, United States Parole Commission; and
- (16) Repealed;
- (17) Repealed;
- (18) The United States Marshal, Superior Court of the District of Columbia.

D.C. Code § 22-4234. Duties.

- (a) The Criminal Justice Coordinating Council shall:
 - (1) Make recommendations concerning the coordination of the activities and the mobilization of the resources of the member agencies in improving public safety in, and the criminal justice system of, the District of Columbia;
 - (2) Cooperate with and support the member agencies in carrying out the purposes of the CJCC;
 - (3) Define and analyze issues and procedures in the criminal justice system, identify alternative solutions, and make recommendations for improvements and changes in the programs of the criminal justice system;
 - (4) Receive information from, and give assistance to, other District of Columbia agencies concerned with, or affected by, issues of public safety and the criminal justice system;

(5) Make recommendations regarding systematic operational and infrastructural matters as are believed necessary to improve public safety in District of Columbia and federal criminal justice agencies;

(6) Advise and work collaboratively with the Office of the Deputy Mayor for Public Safety and Justice, Justice Grants Administration in developing justice planning documents and allocating grant funds;

(7) Select ex-officio members to participate in Criminal Justice Coordinating Council planning sessions and subcommittees as necessary to meet the organization's goals;

(8) Establish measurable goals and objectives for reform initiatives; and

(b) The CJCC shall also report, on an annual basis, on the status and progress of the goals and objectives referenced in subsection (a)(8) of this section, including any recommendations made by the CJCC and its subcommittees to the membership of the CJCC, the public, the Mayor, and the Council. The report shall be submitted to the Mayor and the Council within 90 days after the end of each fiscal year and shall be the subject of a public hearing before the Council during the annual budget process. The CJCC's budget and future funding requests shall also be the subject of a hearing before the Council during the annual budget process.

(c) The CJCC is designated as a criminal justice agency for purposes of transmitting electronically to local, state, and federal agencies criminal-justice-related information, as required by CJCC to perform the duties specified under this section and in accordance with the terms and conditions regarding data sharing approved by the agency that is the source of the information for transmission.

D.C. Code § 22-4235. Administrative support.

(a) There are authorized such funds as may be necessary to support the CJCC.

(b) The CJCC is authorized to hire staff and to obtain appropriate office space, equipment, materials, and services necessary to carry out its responsibilities.

(b-1) Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the CJCC unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit proof of residency upon employment in a manner determined by the CJCC[.] An applicant claiming the

hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of such residency annually to the director of personnel for the CJCC for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The CJCC shall submit to the Mayor and Council annual reports detailing the names of all new employees and their pay schedules, titles, and place of residence.

(c) The CJCC shall serve as the personnel authority for all employees of the CJCC. The CJCC shall exercise this authority consistent with Chapter 6 of Title 1.

(d) The CJCC may exercise procurement authority to carry out the responsibilities of the CJCC, including contracting and contract oversight. The CJCC shall exercise this authority consistent with Chapter 3A of Title 2 [§ 2-351.01 et seq.], except § 2-352.01(a) shall not apply.

D.C. Code § 22-4241. Authorizing federal officials.

(a) In general. -- Each of the individuals described in subsection (b) is authorized to serve on the District of Columbia Criminal Justice Coordinating Council, participate in the Council's activities, and take such other actions as may be necessary to carry out the individual's duties as a member of the Council.

(b) Individuals described. -- The individuals described in this subsection are as follows:

(1) The Director of the Court Services and Offender Supervision Agency for the District of Columbia.

(2) The Director of the District of Columbia Pretrial Services Agency.

(3) The United States Attorney for the District of Columbia.

(4) The Director of the Bureau of Prisons.

(5) The chair of the United States Parole Commission.

(6) The Director of the United States Marshals Service.

D.C. Code § 22-4242. Annual reporting requirement.

Not later than 60 days after the end of each calendar year, the District of Columbia Criminal Justice Coordinating Council shall prepare and submit to the President, Congress, and each of the entities of the District of Columbia

government and federal government whose representatives serve on the Council a report describing the activities carried out by the Council during the year.

D.C. Code § 22-4243. Federal contribution to Criminal Justice Coordinating Council.

There are authorized to be appropriated for fiscal year 2002 and each succeeding fiscal year such sums as may be necessary for a federal contribution to the District of Columbia to cover the costs incurred by the District of Columbia Criminal Justice Coordinating Council.

D.C. Code § 22-4244. District of Columbia Criminal Justice Coordinating Council defined.

In this subchapter, the term "District of Columbia Criminal Justice Coordinating Council" means the entity established by the Council of the District of Columbia under subchapter I of this chapter.

D.C. Code § 22-4251. Comprehensive Homicide Elimination Strategy Task Force established.

(a) There is established a Comprehensive Homicide Elimination Strategy Task Force ("Task Force"). The Task Force shall consider the most effective elements of a comprehensive plan that would lead to the elimination of murder in Washington.

(b) The Task Force shall be comprised of representatives appointed by the Mayor from the government, non-profit organizations, business, schools, victims services organizations, arts, social services, religious, mental health, organized labor, Advisory Neighborhood Commission, and criminology professionals. The Mayor shall designate 2 co-chairs of the Task Force, one each from the government and non-government sectors.

(c) The Task Force shall hold at least 3 public meetings, and shall present a report to the Mayor and the Council at the end of one year.

D.C. Code §§ 22-4301 to 22-4306. Prohibition and control of net fishing in Potomac River; catching and killing bass; "person" defined; sale of bass prohibited; sale and possession of shad or herring; sale of small striped bass; use of explosives and drugs in fishing prohibited. [Repealed].

Repealed.

D.C. Code § 22-4307. Penalties. [Transferred].

Transferred.

D.C. Code §§ 22-4308 to 22-4327. Confiscation of fishing equipment used in violation of the law; sale and possession of woodcocks, squirrels, rabbits, wild chicks, wild geese, and certain game birds; inspection of premises to detect violation of game laws; trespassing for purposes of hunting; shooting or having guns in possession on a Sunday; killing or capturing game beyond District jurisdiction; compensation for persons securing convictions under game laws; killing game birds and permits therefor; hunting squirrels, chipmunks and rabbits without a permit; killing of English sparrow or wild animal suffering from disease or injury; hunting or disbursing of ducks, geese, and waterfowl; sale, possession, or purchase of certain types of birds prohibited; license for certain scientific purposes; sale of birds raised in captivity or for propagation. [Repealed].

Repealed.

D.C. Code § 22-4328. Council's authority with respect to wild animals, fishing licenses, and migratory birds; exception; "wild animals" defined.

The Council of the District of Columbia is authorized to restrict, prohibit, regulate, and control hunting and fishing and the taking, possession, and sale of wild animals in the District; provided, that the District assents to the provisions of the Dingell-Johnson Sport Fish Restoration Act, approved August 9, 1950 (64 Stat. 430; 16 U.S.C. §§ 777-777n), the Pittman-Robertson Wildlife Restoration Act, approved September 2, 1937 (50 Stat. 917; 16 U.S.C. §§ 669-669k), and 18 U.S.C. § 701, including a prohibition against the diversion of fishing license fees paid by sport fishermen for any purpose other than the administration of the District's fish and wildlife agency; provided further, that nothing herein contained shall authorize the Council to prohibit, restrict, regulate, or control the killing, capture, purchase, sale, or possession of migratory birds as defined in regulations issued pursuant to the Migratory Bird Treaty Act of July 3, 1918, as amended (16 U.S.C. §§ 703-712) and taken for scientific, propagating, or other purposes under permits issued by the Secretary of the Interior; and provided further, that nothing herein contained shall authorize the Council to prohibit, restrict, regulate, or control the sale or possession of wild animals taken legally in any state, territory or possession of the United States or in any foreign country, or produced on a game farm, except as may be necessary to protect the public health or safety. As used in this section the term "wild animals" includes, without limitation, mammals, birds, fish, and reptiles not ordinarily domesticated.

~~**D.C. Code § 22-4329. Inspection of business or vocational establishments requiring a license or permit or any vehicle, boat, market box, market stall or cold storage plant, during business hours.**~~

~~Authorized officers and employees of the government of the United States or of the government of the District of Columbia are, for the purpose of enforcing the provisions of this chapter and the regulations promulgated by the Council of the District of Columbia under the authority of this chapter, empowered, during business hours, to inspect any building or premises in or on which any business,~~

~~trade, vocation, or occupation requiring a license or permit is carried on, or any vehicle, boat, market box, market stall, or cold storage plant. No person shall refuse to permit any such inspection.~~

D.C. Code § 22-4330. Seizure of hunting and fishing equipment; sale at public auction and disposal of proceeds; disposal of property not sold at auction; payment of valid liens after sale.

(a) All rifles, shotguns, ammunition, bows, arrows, traps, seines, nets, boats, and other devices of every nature or description used by any person within the District of Columbia when engaged in killing, ensnaring, trapping, or capturing any wild bird, wild mammal, or fish contrary to this chapter or any regulation made pursuant to this chapter shall be seized by any police officer, or any designated civilian employee of the Metropolitan Police Department, upon the arrest of such person on a charge of violating any provision of this chapter or any regulations made pursuant thereto, and be delivered to the Mayor. If the person so arrested is acquitted, the property so seized shall be returned to the person in whose possession it was found. If the person so arrested is convicted, the property so seized shall, in the discretion of the court, be forfeited to the District of Columbia, and be sold at public auction, the proceeds from such sale to be deposited in the Treasury to the credit of the District of Columbia. If any item of such property is not purchased at such auction, it shall be disposed of in accordance with regulations prescribed by the District of Columbia Council.

(b) If any property seized under the authority of this section is subject to a lien which is established by intervention or otherwise to the satisfaction of the court as having been created without the lienor's having any notice that such property was to be used in connection with a violation of any provision of this chapter or any regulation made pursuant thereto, the court, upon the conviction of the accused, may order a sale of such property at public auction. The officer conducting such sale, after deducting proper fees and costs incident to the seizure, keeping, and sale of such property, shall pay all such liens according to their priorities, and such lien or liens shall be transferred from the property to the proceeds of the sale thereof.

D.C. Code § 22-4332. Delegation of functions by Secretary of the Interior and Mayor; Council to make regulations; "Mayor" and "Secretary of the Interior" defined.

(a) The Secretary of the Interior and the Mayor, respectively, are authorized to delegate any of the functions to be performed by them under the authority of this chapter.

(b) The Council of the District of Columbia is authorized to make such regulations as may be necessary to carry out the purpose of this chapter; provided, that any regulations issued pursuant to this chapter shall be subject to the approval

of the Secretary of the Interior insofar as they involve any areas or waters of the District of Columbia under the appropriate administrative jurisdiction.

(c) As used in this chapter the word "Mayor" means the Mayor of the District of Columbia or the appropriate designated agent or agents, and the words "Secretary of the Interior" means the Secretary of the Interior or the appropriate designated agent or agents.

D.C. Code § 22-4333. Existing authority of Secretary of the Interior not impaired.

Nothing in this chapter or in any regulation promulgated by the Council of the District of Columbia under the authority of this chapter shall in any way impair the existing authority of the Secretary of the Interior to control and manage fish and wildlife on the land and waters in the District of Columbia under the Secretary of the Interior's administrative jurisdiction.

D.C. Code § 22-4401. Harbor regulations; authority vested in Council; compliance with federal law required; District and federal statutes and regulations supplemented. [Repealed].

Repealed.

APPENDIX VI: RESOLUTION OF DISCREPANCIES IN D.C. OFFICIAL CODE

Note: All statute texts are taken from the online LexisNexis District of Columbia Official Code. The texts in the Official Code are current through April 5, 2016.

This Appendix summarizes the resolution of the identified discrepancies between the text of Title 22 in the D.C. Official Code as of April 5, 2016 and the underlying organic legislation. Part 1 of this Appendix discusses non-substantive discrepancies and Part 2 discusses substantive discrepancies that affect the substance of the law.

For information on the review process used to identify these discrepancies, see pages 16-19 of the “Report on Enactment of D.C. Code Title 22 and Other Criminal Code Revisions” that was submitted to the Council in September 2015.

The Appendix summarizes the organic legislation and subsequent amendments. Copies of this legislation are available for review.

Part 1: Non-Substantive Discrepancies And Recommendations.

This part of the Appendix summarizes and recommends resolutions for the non-substantive discrepancies between the organic legislation and the text of Title 22 in the D.C. Official Code as of April 5, 2016.

1. D.C. Code § 22-2701.01. Definitions for prostitution, pandering, and related statutes.

- a. Relevant language:** Section 22-2701.01 codifies the definitions that apply to prostitution, pandering, and related statutes in Chapter 27 of Title 22. The relevant language is in the lead-in language to the list of definitions and is italicized:

For the purposes of this section, §§ 22-2701, 22-2703, and 22-2723, § 22-2704, §§ 22-2705 to 22-2712, §§ 22-2713 to 22-2720, and § 22-2722 [list of definitions].

- b. Discrepancy with the organic legislation:** Section 22-2701.01 states that the definitions codified in that section apply to § 22-2704, abducting or enticing a child from his or her home for purposes of prostitution. However, the organic legislation for § 22-2701.01, as modified by a subsequent amendment, incorrectly cites § 22-2704.

A 2007 amendment to § 22-2701.01 refers to “*Section 812* of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat 1322; D.C.

Official Code § 22-2704).”² However, Section 812 of the 1901 Act contains the kidnapping offense, which is codified at § 22-2001, not § 22-2704. *Section 813* of the 1901 Act is codified at § 22-2704.

- c. **Recommendation:** Keep the discrepancy so that § 22-2701.01 continues to reference § 22-2704. It appears that the 2007 amendment to § 22-2701.01 erroneously refers to Section 812, and that what was intended was Section 813. None of the terms defined in § 22-2701.01 appear in the kidnapping statute. By codifying a reference to § 22-2704, the D.C. Official Code resolves an error in the 2007 amendment.

2. D.C. Code § 22-4505. Exceptions to certain weapons statutes.

- a. **Relevant language:** Section 22-4505 codifies the exceptions to certain weapons statutes. The relevant language is italicized:

(a) The provisions of §§ 22-4504(a) and 22-4504(a-1) shall not apply to:

[. . .]

(2) Special police officers and campus police officers who carry a firearm in accordance with D.C. Official Code § 5-129.02, and rules promulgated pursuant to *that section*.

- b. **Discrepancy with the organic legislation:** Section 22-4505(a)(2) refers to “[s]pecial police officers and campus police officers who carry a firearm in accordance with D.C. Official Code § 5-129.02, and rules promulgated pursuant to *that section*.” The language in the organic act (as modified by a 2012 amendment) refers to “rules promulgated to *that act*.”
- c. **Recommendation:** Keep the discrepancy so that § 22-4505(a)(2) continues to refer to “that section.” Section 5-129.02 has a specific subsection regarding rules for special police officers and campus police officers. By referring to “that section,” the D.C. Official Code resolves confusion that may arise from reference to “that act” in the 2012 amendment.

3. D.C. Code § 22-3312.01. Defacing public or private property.

- a. **Relevant language:** Section 22-3312.01 prohibits defacing public or private property. The relevant language is in the first clause and is italicized:

It shall be unlawful for any person or persons willfully and wantonly to disfigure, cut, chip, or cover, rub with, or otherwise place filth or excrement of any kind; to write, mark, or print obscene or indecent figures representing

² Omnibus Public Safety Amendment Act of 2006, 2006 District of Columbia Laws 16-306 (Act 16-482), effective April 24, 2007 (emphasis added).

obscene or objects upon; to write, mark, draw, or paint, without the consent of the owner or proprietor thereof, or, in the case of public property, of the person having charge, custody, or control thereof, any word, sign, or figure upon:

(1) Any property, public or private, building, statue, monument, office, public passenger vehicle, mass transit equipment or facility, dwelling or structure of any kind including those in the course of erection; or

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(2) The doors, windows, steps, railing, fencing, balconies, balustrades, stairs, porches, halls, walls, sides of any enclosure thereof, or any movable property.

- b. Discrepancy with the organic legislation:** In the organic legislation, the first clause concludes with “upon,” so that the clause reads: “It shall be unlawful for any person or persons willfully and wantonly to disfigure, cut, chip, or cover, rub with, or otherwise place filth or excrement of any kind upon.”
- c. Recommendation:** Correct the discrepancy so that the first clause of § 22-3312.01 concludes with “upon” as it does in the organic legislation. The other two clauses in the organic legislation conclude with “upon” because the statute requires the defacement “upon” property. The D.C. Official Code appears to inadvertently omit “upon” from the first clause. The revised statute would read as follows:

It shall be unlawful for any person or persons willfully and wantonly to disfigure, cut, chip, or cover, rub with, or otherwise place filth or excrement of any kind upon; to write, mark, or print obscene or indecent figures representing obscene or objects upon; to write, mark, draw, or paint, without the consent of the owner or proprietor thereof, or, in the case of public property, of the person having charge, custody, or control thereof, any word, sign, or figure upon:

(1) Any property, public or private, building, statue, monument, office, public passenger vehicle, mass transit equipment or facility, dwelling or structure of any kind including those in the course of erection; or

(2) The doors, windows, steps, railing, fencing, balconies, balustrades, stairs, porches, halls, walls, sides of any enclosure thereof, or any movable property.

4. D.C. Code § 22-2104.01. Sentencing procedure for first degree murder.

- a. Relevant language:** Subsection(b) of § 22-2104.01 lists the aggravating factors that determine whether the sentence for first degree murder may be increased to more than 60 years up to, and including, life imprisonment without release. The relevant language is italicized in aggravating factor number 12:

(a) If a defendant is convicted of murder in the first degree, and if the prosecution has given the notice required under § 22-2104(a), a separate sentencing procedure shall be conducted as soon as practicable after the trial has been completed to determine whether to impose a sentence of more than 60 years up to, and including, life imprisonment without possibility of release.

(b) In determining the sentence, a finding shall be made whether, beyond a reasonable doubt, any of the following aggravating circumstances exist:

[. . .]

(12) At the time of the commission of the murder, the defendant had previously been convicted and sentenced, whether in a court of the District of Columbia, of the United States, or of any state, for (A) murder, (B) manslaughter, (C) any attempt, solicitation, or conspiracy to commit murder, (D) assault with intent to kill, (E) assault with intent to murder, or (F) at least twice, for any offense or offenses, described in § 22-4501(f) [*now § 22-4501(4)*], whether committed in the District of Columbia or any other state, or the United States. A person shall be considered as having been convicted and sentenced twice for an offense or offenses when the initial sentencing for the conviction in the first offense preceded the commission of the second offense and the initial sentencing for the second offense preceded the commission of the instant murder.

- b. Discrepancy with the organic legislation:** Subsection 12 of § 22-2104.01 codifies as an aggravating factor for first degree murder whether the defendant “had previously been convicted and sentenced . . . at least twice, for any offense or offenses, described in § 22-4501(f) [*now § 22-4501(4)*].” However, § 22-4501(4) codifies the definition of “machine gun,” which does not make sense in the context of an aggravating factor that requires prior convictions.

When subsection (12) was added to § 22-2104.01 in 1995, subsection (f) of § 22-4501 codified the definition of “crime of violence.” In 2009,³ however, the list of definitions in § 22-4501 was expanded, numbered, and reorganized. This legislation

³ Title 22 Amendment Act of 2008, 2008 District of Columbia Laws 17-390 (Act 17-524), effective May 15, 2009.

made “machine gun” subsection (4) and made “crime of violence” subsection (1). As a result, § 22-4501(4) no longer refers to the definition of “crime of violence.”

- c. Recommendation:** Correct the text of § 22-2104.01 so that it refers to § 22-4501(1), which is the definition of “crime of violence.” It appears that the text of § 22-2104.01 the official D.C. Code was not updated to reflect the reorganization of the definitions in § 22-4501. The revised statute would read as follows:

(a) If a defendant is convicted of murder in the first degree, and if the prosecution has given the notice required under § 22-2104(a), a separate sentencing procedure shall be conducted as soon as practicable after the trial has been completed to determine whether to impose a sentence of more than 60 years up to, and including, life imprisonment without possibility of release.

(b) In determining the sentence, a finding shall be made whether, beyond a reasonable doubt, any of the following aggravating circumstances exist:

[. . .]

(12) At the time of the commission of the murder, the defendant had previously been convicted and sentenced, whether in a court of the District of Columbia, of the United States, or of any state, for (A) murder, (B) manslaughter, (C) any attempt, solicitation, or conspiracy to commit murder, (D) assault with intent to kill, (E) assault with intent to murder, or (F) at least twice, for any offense or offenses, described in § 22-4501(1), whether committed in the District of Columbia or any other state, or the United States. A person shall be considered as having been convicted and sentenced twice for an offense or offenses when the initial sentencing for the conviction in the first offense preceded the commission of the second offense and the initial sentencing for the second offense preceded the commission of the instant murder.

5. D.C. Code § 22-1801. “Writing” and “paper” defined.

- a. Relevant language:** Section 22-1801 codifies open-ended definitions for “writing” and “paper” for Title 22. The relevant language is italicized below:

Except where otherwise provided for where such a construction would be unreasonable, the words “writing” and “paper,” wherever mentioned *in this title*, are to be taken to include instruments wholly in writing or wholly printed, or partly printed and partly in writing.

- b. Discrepancy with the organic legislation:** The 1901 organic legislation limits the applicability of the definitions to “this chapter,” instead of “this title.” The referenced

chapter is chapter 19 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901. The Act was the original criminal code for D.C., but the criminal code has been significantly expanded since 1901. As a result, many statutes in the current Title 22 that were not part of the original criminal code use the terms “writing” and “paper.” Applying the definitions of these terms in § 22-1801 to these newer statutes may substantively affect these newer statutes.

- c. **Recommendation:** Keep the discrepancy so that § 22-1801 continues to refer to “this title.” The Criminal Code Reform Commission has reviewed all statutes in Title 22 that were not part of the original 1901 code that use the terms “writing”⁴ or “paper.”⁵ Applying the open-ended definitions in § 22-1801 does not change the scope of or conflict with these statutes.

6. D.C. Code § 22-1802. “Anything of value” defined.

- a. **Relevant language:** Section 22-1802 codifies an open-ended definition for “anything of value” for Title 22 and the District of Columbia Theft and White Collar Crimes Act of 1982 (1982 Theft Act). The relevant language is italicized below:

The words “anything of value,” wherever they occur *in this title* and the District of Columbia Theft and White Collar Crimes Act of 1982, shall be held to include not only things possessing intrinsic value, but bank notes and other forms of paper money, and commercial paper and other writings which represent value.

⁴ For “writing” specifically, the majority of the statutes use “writing” as an adjective, such as providing a notice or statement “in writing.” Section 22-1801 limits the applicability of the definition to “except where . . . such construction would be unreasonable,” thus permitting these statutes to be construed with “writing” as an adjective. These are the statutes in Title 22 that were not part of the original 1901 criminal code that use the term “writing.” D.C. Code §§ 22-3804 (filing of statement for sexual psychopaths); 22-4005 (duties of the Department of Corrections regarding sex offenders); 22-4505 (exceptions to § 22-4504, carrying pistols or deadly or dangerous weapons; possession of weapons during crime of violence); 22-3401 (use of “District of Columbia” or similar designation by private detective or collection agency); 22-3312.05 (definitions for §§ 22-3312.01 through 22-3312.05); 22-2752 (unlawful protests targeting residences); 22-2715 (abatement of nuisance under § 22-2713 by injunction-trial; dismissal of complaint; prosecution; costs); 22-3225.01 (definitions for insurance fraud); 22-4235 (administrative support for the Criminal Justice Coordinating Council); 22-2404 (false swearing); 22-2405 (false statements); 22-2714 (abatement of nuisance under § 22-2713 by injunction- temporary injunction); 22-4006 (duties of the Department of Mental Health regarding sex offenders); 22-3223 (credit card fraud); 22-3020 (aggravating circumstances for the sexual abuse offenses); 22-1319 (false alarms and false reports; hoax weapons); 22-3226.02 (application for a certificate of registration of telephone solicitor); 22-4517 (dangerous articles); 22-1510 (making, drawing, or uttering check, draft, or order with intent to defraud); 22-3803 (definitions for sexual psychopaths). The descriptive parentheticals listed here are provided for convenience of reference and may not be identical to the statute labels in the D.C. Official Code.

⁵ These are the statutes in Title 22 that were not part of the original 1901 criminal code that use the term “paper.” D.C. Code §§ 22-3225.11 (limited law enforcement authority for the Commissioner of the Department of Insurance, Securities, and Banking, the Commissioner’s designee, or the Commission itself); 22-3227.05 (correction of public records in cases of identity theft); 22-3241 (forgery statute using “commercial paper.”). The descriptive parentheticals listed here are provided for convenience of reference and may not be identical to the statute labels in the D.C. Official Code.

- b. Discrepancy with the organic legislation:** The 1901 organic legislation limits the applicability of the definition to “this chapter,” instead of “this title.” The referenced chapter is chapter 19 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901. The Act was the original criminal code for D.C., but the criminal code has been significantly expanded since 1901. As a result, many statutes in the current Title 22 that were not part of the original criminal code use the term “anything of value.” Applying the definition of this term in § 22-1802 to these newer statutes may substantively affecting the law of these statutes, with the exception of the statutes in the 1982 Theft Act.
- c. Recommendation:** Keep the discrepancy so that § 22-1802 continues to refer to “this title.” The Criminal Code Reform Commission has reviewed all statutes in Title 22 that were not part of the original 1901 code or the 1982 Theft Act that use the terms “anything of value.”⁶ Applying the open-ended definition in § 22-1802 does not change the scope of or conflict with these statutes.

7. D.C. Code § 22-1809. Manner of prosecutions and penalties for specified offenses.

- a. Relevant language:** Section 22-1809 specifies the manner of prosecution and penalties for specific offenses. The relevant language is italicized:

All prosecutions for violations of § 22-1321 or any of the provisions of any of the laws or ordinances provided for by this act shall be conducted in the name of and for the benefit of the District of Columbia, and in the same manner as provided by law for the prosecution of offenses against the laws and ordinances of the said District. *Any person convicted of any violation of § 22-1321 or any of the provisions of this act, and who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense. The second sentence of this section shall not apply with respect to any violation of § 22-1312(b).*

- b. Discrepancy with the organic legislation:** Subsection (b) of § 22-1312 was deleted in 2011,⁷ yet is still referenced in § 22-1809.
- c. Recommendation:** Correct the discrepancy by deleting the last sentence of § 22-1809. The revised statute would read:

All prosecutions for violations of § 22-1321 or any of the provisions of any of

⁶ These are the statutes in Title 22 that were not part of the original 1901 criminal code that use the phrase “anything of value.” D.C. Code §§ 22-2701.01 (definitions for prostitution, pandering, and related statutes); 22-2701 (engaging in and soliciting for prostitution); 22-1511 (fraudulent advertising); 22-1831 (definitions for human trafficking statutes); 22-1836 (benefiting financially from human trafficking); 22-1402 (recordation of deed, contract, or conveyance with intent to extort money). The descriptive parentheticals listed here are provided for convenience of reference and may not be identical to the statute labels in the D.C. Official Code.

⁷ Disorderly Conduct Amendment Act of 2010, 2010 District of Columbia Laws 18-375 (Act 18-699), effective May 26, 2011.

the laws or ordinances provided for by this act shall be conducted in the name of and for the benefit of the District of Columbia, and in the same manner as provided by law for the prosecution of offenses against the laws and ordinances of the said District. Any person convicted of any violation of § 22-1321 or any of the provisions of this act, and who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense.

Deleting the reference to subsection (b) does not change current law because subsection (b) of § 22-1312 was deleted in 2011 and there is no equivalent provision in current § 22-1312.⁸

- d. Additional revisions:** It should also be noted that the legislation in tile 1 of Appendix IX, which enacts Title 22, strikes the language “committed to the Workhouse of the District of Columbia” and inserts “imprisoned” instead.

Part 2: Substantive Discrepancies and Recommendations.

This part of the Appendix summarizes and recommends resolutions for the substantive discrepancies between the organic legislation and the text of Title 22 in the D.C. Official Code as of April 5, 2016. Unlike the discrepancies discussed in Part I, resolving these discrepancies may change the state of the law.

Part 2.A addresses statutes with discrepancies unique to those statutes. Part 2.B addresses the use of “Mayor” and “Council” in statutes when the organic legislation originally referred to “Commissioners” or “Board of Commissioners.”

⁸ The exemption for subsection (b) of § 22-1312 was added to § 22-1809 in 1953. Section 22-1312, until its deletion in 2011, read:

(a) It shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person, or to make any lewd, obscene, or indecent sexual proposal, or to commit any other lewd, obscene or indecent act in the District of Columbia, under penalty of not more than \$300 fine, or imprisonment of not more than ninety days, or both, for each and every such offense.

(b) Any person or persons who shall commit an offense described in subsection (a), knowing he or she or they are in the presence of a child under the age of sixteen years, shall be punished by imprisonment of not more than one year, or fined in an amount not to exceed \$1,000, or both, for each and every such offense.

As can be seen, subsection (b) of § 22-1312 had a higher possible penalty than subsection (a) of § 22-1312, with a maximum possible jail sentence of up to one year in jail, or a fine of up to \$1,000, or both.

Given the higher penalty in subsection (b), it was necessary for § 22-1809 to exempt subsection (b) from the penalty provision permitting a 6 month sentence. Exempting subsection (b) of § 22-1312 ensured that the defendant was subject to the maximum penalty of one year in § 22-1809 if the defendant failed to pay a fine.

Subsection (b) was deleted from § 22-1312 in 2011. Disorderly Conduct Amendment Act of 2010, 2010 District of Columbia Laws 18-375 (Act 18-699), effective May 26, 2011. The current penalty for § 22-1312 is a maximum sentence of 90 days in jail, a maximum fine of \$500, or both. Since the current penalty is less than the six months possible under § 22-1809, there is no need to exempt § 22-1312 from § 22-1809. Theoretically, a defendant convicted of current § 22-3312 who received a fine and failed to pay it could still be subjected to the higher 6 month penalty in § 22-1809.

Part 2.A: Statutes with Unique Discrepancies.

1. D.C. Code § 22-1011. Neglect of sick or disabled animals.

- a. Relevant language:** Section 22-1011 in its current form prohibits neglecting sick or disabled animals. The relevant language is italicized:

If any maimed, sick, infirm, or disabled animal *shall fail to receive proper food or shelter* from said owner or person in charge of the same for more than 5 consecutive hours, such person shall, for every such offense, be punished in the same manner provided in § 22-1001.

- b. Discrepancy with the organic legislation:** The statute omits “be abandoned by its owner, or” which is present in the original 1871 organic legislation.⁹
- c. Recommendation:** Correct the discrepancy so that § 22-1011 includes “be abandoned by its owner, or” as it does in the organic legislation. The text in the D.C. Official Code appears to erroneously omit this language. The revised statute reads as follows:

If any maimed, sick, infirm, or disabled animal shall *be abandoned by its owner, or fail to receive proper food or shelter* from said owner or person in charge of the same for more than 5 consecutive hours, such person shall, for every such offense, be punished in the same manner provided in § 20-1001.

2. D.C. Code § 22-4514. Possession of certain dangerous weapons prohibited; exceptions.

- a. Relevant language:** Subsection (a) of § 22-4514 prohibits the possession of certain dangerous weapons, but states that “machine guns, or sawed-off shotgun, knuckles, and blackjacks may be possessed” by members of certain military branches, including “the Army, Navy, Air Force, or Marine Corps of the United States.” This list of institutions is the relevant language and is italicized:

(a) No person shall within the District of Columbia possess any machine gun, sawed-off shotgun, knuckles, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, sand club, sandbag, switchblade knife, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing

⁹ The legislative history in the D.C. Official Code lists § 22-1011 as being codified from section 10 of chapter 106 of the Acts of the Legislative Assembly, August 23, 1871. This organic act includes the language “be abandoned by its owner, or.” The only other amendment listed in the legislative history for § 22-1011 is section 4 of An act to prevent cruelty to children or animals in the District of Columbia, and for other purposes, approved June 25, 1892. The D.C. Official Code Disposition tables list this 1892 amendment for § 22-1011 as well. However, the Criminal Code Reform Commission cannot discern any change section 4 of the 1892 Act made to § 22-1011. Rather, section 4 of the 1892 Act appears to have added subsection (a) to § 22-1012. Both the legislative history and the Disposition Tables state that section 4 of the 1892 Act amended § 22-1012 as well as § 22-1011.

of any firearms; provided, *however, that machine guns, or sawed-off shotgun, knuckles, and blackjacks may be possessed by the members of the Army, Navy, Air Force, or Marine Corps of the United States, the National Guard, or Organized Reserves when on duty, the Post Office Department or its employees when on duty, marshals, sheriffs, prison or jail wardens, or their deputies, policemen, or other duly-appointed law enforcement officers, including any designated civilian employee of the Metropolitan Police Department, or officers or employees of the United States duly authorized to carry such weapons, banking institutions, public carriers who are engaged in the business of transporting mail, money, securities, or other valuables, wholesale dealers and retail dealers licensed under § 22-4510. . . .*

- b. Discrepancy with the organic legislation:** The official text of § 22-4514(a) includes the Air Force. The organic legislation, however, is limited in relevant part to “Army, Navy, or Marine Corps of the United States” and excludes the Air Force.
- c. Recommendation:** Keep the discrepancy so that § 22-4514(a) includes Air Force. The omission of “Air Force” in the organic act may reflect the fact that the Air Force was not established as a separate military service department until 1947.¹⁰ By codifying a reference to the Air Force, the D.C. Official Code appears to resolve an anachronistic error in the 1932 organic statute.¹¹

Part 2.B: Use of “Mayor” and “Council” in Title 22.

For the statutes in this part of the Appendix, the organic legislation refers to early bodies of local governance in the District of Columbia, like the Board of Commissioners, which have been abolished. Contrary to the actual text of the organic act (which retains the names of the abolished forms of government), the text of the official D.C. Code replaces these references with “Mayor” and “Council of the District of Columbia.”

The statutes themselves were never individually amended to reflect these changes. Instead, the authority for codification counsel to make these changes comes from the legislation that abolished the earlier bodies of local District government.¹² This legislation also establishes

¹⁰ *The U.S. Air Force*, (Jan. 18, 2006), <http://www.af.mil/AboutUs/FactSheets/Display/tabid/224/Article/104613/the-us-air-force.aspx> (last visited Sep. 25, 2015).

¹¹ Notably, while the codification counsel appears to have fixed the omission of “Air Force” in § 22-4514, 2012 legislation fixed the omission of “Air Force” in § 22-4505(a)(3). The 1932 organic act for § 22-4505 similarly omitted “Air Force”: “Army, Navy, or Marine Corps of the United States, the National Guard, or Organized Reserves when on duty.” A 2012 amendment revised the statute and inserted “Air Force” so that the list now reads “Army, Navy, Air Force, or Marine Corps of the United States.” Firearms Amendment Act of 2012, 2012 District of Columbia Laws 19-170 (Act 19-366), effective September 26, 2012.

¹² D.C. Code § 1-207.14(a) (“Any statute, regulation, or other action in respect of (and any regulation or other action issued, made, taken, or granted by) any officer or agency from which any function is transferred by this chapter shall, except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made; but after such transfer, references in such statute, regulation, or other action to an officer or agency from which a transfer is made by this chapter shall be held and considered to refer to the officer or agency to which the transfer is made.”).

whether a reference to an earlier body of government should be replaced with either Mayor or Council.

Part 2.B.i contains the statutes with the discrepancies, including those that are recommended for relocation from Title 22 (listed in Appendix V). Part 2.B.ii contains a detailed discussion of the changes in District government that are relevant to these discrepancies.

Part 2.B.i: The Affected Statutes.

1. D.C. Code § 22-4328. Council’s authority with respect to wild animals.

- a. Relevant language:** Section 22-4328 codifies the authority of the Council to legislate hunting and fishing and the taking, possession, and sale of wild animals in the District. The relevant language is italicized:

The Council of the District of Columbia is authorized to restrict, prohibit, regulate, and control hunting and fishing and the taking, possession, and sale of wild animals in the District; provided, that the District assents to the provisions of the Dingell-Johnson Sport Fish Restoration Act, approved August 9, 1950 (64 Stat. 430; 16 U.S.C. §§ 777-777n), the Pittman-Robertson Wildlife Restoration Act, approved September 2, 1937 (50 Stat. 917; 16 U.S.C. §§ 669-669k), and 18 U.S.C. § 701, including a prohibition against the diversion of fishing license fees paid by sport fishermen for any purpose other than the administration of the District's fish and wildlife agency; provided further, that nothing herein contained shall authorize *the Council* to prohibit, restrict, regulate, or control the killing, capture, purchase, sale, or possession of migratory birds as defined in regulations issued pursuant to the Migratory Bird Treaty Act of July 3, 1918, as amended (16 U.S.C. §§ 703-712) and taken for scientific, propagating, or other purposes under permits issued by the Secretary of the Interior; and provided further, that nothing herein contained shall authorize *the Council* to prohibit, restrict, regulate, or control the sale or possession of wild animals taken legally in any state, territory or possession of the United States or in any foreign country, or produced on a game farm, except as may be necessary to protect the public health or safety. As used in this section the term "wild animals" includes, without limitation, mammals, birds, fish, and reptiles not ordinarily domesticated.

- b. Discrepancy with the organic legislation:** The organic legislation referred to the “Commissioners” instead of the “Council.”
- c. Recommendation:** Keep the discrepancy so that § 22-4328 continues to refer to the “Council.” As Part 2.B.ii of this Appendix discusses, under the Home Rule Act, the “Council” is the correct replacement for the “Commissioners” in the organic legislation.

2. D.C. Code § 22-4329. Inspection of certain business or vocational establishments.

- a. Relevant language:** Section 22-4329 authorizes inspections of certain buildings or premises. The relevant language is italicized:

Authorized officers and employees of the government of the United States or of the government of the District of Columbia are, for the purpose of enforcing the provisions of this chapter and the regulations promulgated by *the Council* of the District of Columbia under the authority of this chapter, empowered, during business hours, to inspect any building or premises in or on which any business, trade, vocation, or occupation requiring a license or permit is carried on, or any vehicle, boat, market box, market stall, or cold-storage plant. No person shall refuse to permit any such inspection.

- b. Discrepancy with the organic legislation:** The organic legislation referred to the “Commissioners” instead of the “Council.”
- c. Recommendation:** Keep the discrepancy so that § 22-4329 continues to refer to the “Council.” As Part 2.B.ii of this Appendix discusses, under the Home Rule Act, the “Council” is the correct replacement for the “Commissioners” in the organic legislation.

3. D.C. Code § 22-4330. Seizure of hunting and fishing equipment.

- a. Relevant language:** Section 22-4330 authorizes inspections of certain buildings or premises. The relevant language is italicized:

(a) All rifles, shotguns, ammunition, bows, arrows, traps, seines, nets, boats, and other devices of every nature or description used by any person within the District of Columbia when engaged in killing, ensnaring, trapping, or capturing any wild bird, wild mammal, or fish contrary to this chapter or any regulation made pursuant to this chapter shall be seized by any police officer, or any designated civilian employee of the Metropolitan Police Department, upon the arrest of such person on a charge of violating any provision of this chapter or any regulations made pursuant thereto, and be delivered to *the Mayor*. If the person so arrested is acquitted, the property so seized shall be returned to the person in whose possession it was found. If the person so arrested is convicted, the property so seized shall, in the discretion of the court, be forfeited to the District of Columbia, and be sold at public auction, the proceeds from such sale to be deposited in the Treasury to the credit of the District of Columbia. If any item of such property is not purchased at such auction, it shall be disposed of in accordance with regulations prescribed by the *District of Columbia Council*.

(b) If any property seized under the authority of this section is subject to a lien which is established by intervention or otherwise to the satisfaction of the

court as having been created without the lienor's having any notice that such property was to be used in connection with a violation of any provision of this chapter or any regulation made pursuant thereto, the court, upon the conviction of the accused, may order a sale of such property at public auction. The officer conducting such sale, after deducting proper fees and costs incident to the seizure, keeping, and sale of such property, shall pay all such liens according to their priorities, and such lien or liens shall be transferred from the property to the proceeds of the sale thereof.

- b. Discrepancy with the organic legislation:** The organic legislation referred to the “Commissioners” instead of the “Mayor” and “District of Columbia Council.”
- c. Recommendation:** Keep the discrepancy that refers to the “Mayor.” As Part 2.B.ii of this Appendix details, under the Home Rule Act, the “Mayor” is the correct replacement for this reference to the “Commissioners” in the organic legislation.

However, the reference to the “District of Columbia Council” should be replaced with the “Council of District of Columbia.” As Part 2.B.ii of this Appendix discusses, the Home Rule Act abolished the “District of Columbia Council” and replaced it with the “Council of the District of Columbia.”

4. D.C. Code § 22-4332. Delegation of power under game and fish laws chapter.

- a. Relevant language:** Section 22-4332 delineates the powers of the Council and the Mayor under the game and fish laws of the District in Chapter 43. The relevant language is italicized:

(a) The Secretary of the Interior and *the Mayor*, respectively, are authorized to delegate any of the functions to be performed by them under the authority of this chapter.

(b) The *Council of the District of Columbia* is authorized to make such regulations as may be necessary to carry out the purpose of this chapter; provided, that any regulations issued pursuant to this chapter shall be subject to the approval of the Secretary of the Interior insofar as they involve any areas or waters of the District of Columbia under the appropriate administrative jurisdiction.

(c) As used in this chapter the word "*Mayor*" means the *Mayor* of the District of Columbia or the appropriate designated agent or agents, and the words "Secretary of the Interior" means the Secretary of the Interior or the appropriate designated agent or agents.

- b. Discrepancy with the organic legislation:** The organic legislation referred to the “Commissioners” instead of the “Mayor” and the “Council of the District of Columbia.”
- c. Recommendation:** Keep the discrepancy so that § 22-4332 continues to refer to the “Mayor” and the “Council.” As Part 2.B.ii of this Appendix details, under the Home Rule Act, the “Mayor” and the “Council” are the correct replacements for the “Commissioners” in the organic legislation.

5. D.C. Code § 22-4333. Authority of Secretary of the Interior.

- a. Relevant language:** Section 22-4333 maintains the existing authority of the Secretary of the Interior to control and manage fish and wildlife in the District. The relevant language is italicized:

Nothing in this chapter or in any regulation promulgated by *the Council* of the District of Columbia under the authority of this chapter shall in any way impair the existing authority of the Secretary of the Interior to control and manage fish and wildlife on the land and waters in the District of Columbia under the Secretary of the Interior's administrative jurisdiction.

- b. Discrepancy with the organic legislation:** The organic legislation referred to the “Commissioners” instead of the “Council.”
- c. Recommendation:** Keep the discrepancy so that § 22-4333 continues to refer to the “Council.” As Part 2.B.ii of this Appendix details, under the Home Rule Act, the “Council” is the correct replacement for the “Commissioners” in the organic legislation.

6. D.C. Code § 22-4402. Throwing or depositing matter in Potomac River.

- a. Relevant language:** Section 22-4402 prohibits depositing specified matter in the Potomac River or its tributaries in the District. The relevant language is italicized:

(a) It shall be unlawful for any owner or occupant of any wharf or dock, any master or captain of any vessel, or any person or persons to cast, throw, drop, or deposit any stone, gravel, sand, ballast, dirt, oyster shells, or ashes in the water in any part of the Potomac River or its tributaries in the District of Columbia, or on the shores of said river below highwater mark, unless for the purpose of making a wharf, after permission has been obtained from *the Mayor* of the District of Columbia for that purpose, which wharf shall be sufficiently inclosed and secured so as to prevent injury to navigation.

(b) It shall be unlawful for any owner or occupant of any wharf or dock, any captain or master of any vessel, or any other person or persons to cast, throw, deposit, or drop in any dock or in the waters of the Potomac River or its

tributaries in the District of Columbia any dead fish, fish offal, dead animals of any kind, condemned oysters in the shell, watermelons, cantaloupes, vegetables, fruits, shavings, hay, straw, or filth of any kind whatsoever.

(c) Nothing in this section contained shall be construed to interfere with the work of improvement in or along the said river and harbor under the supervision of the United States government.

(d) Any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not more than the amount set forth in § 22-3571.01, or by imprisonment not exceeding 6 months, or both, in the discretion of the court.

b. Discrepancy with the organic legislation: The organic legislation referred to the “Commissioners” instead of the “Mayor.”

c. Recommendation: Keep the discrepancy so that § 22-4402 continues to refer to the “Mayor.” As Part 2.B.ii of this Appendix details, under the Home Rule Act, the “Mayor” is the correct replacement for the “Commissioners” in the organic legislation.

7. D.C. Code § 22-4510. Licenses of weapons dealers.

a. Relevant language: Section 22-4510 codifies the authority of the Mayor to grant licenses for certain weapons dealers. The relevant language is italicized:

(a) *The Mayor* of the District of Columbia may, in his or her discretion, grant licenses and may prescribe the form thereof, effective for not more than 1 year from date of issue, permitting the licensee to sell pistols, machine guns, sawed-off shotguns, and blackjacks at retail within the District of Columbia subject to the following conditions in addition to those specified in § 22-4509, for breach of any of which the license shall be subject to forfeiture and the licensee subject to punishment as provided in this chapter:

(1) The business shall be carried on only in the building designated in the license.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can be easily read.

(3) No pistol shall be sold: (A) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is forbidden by § 22-4503 to possess a pistol [now "firearm"] or is under the age of 21 years; and (B) unless the purchaser is personally known to the seller or shall present clear evidence of his or her identity. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in § 22-4514 as entitled to possess the same,

and then only after permission to make such sale has been obtained from the Chief of Police of the District of Columbia.

(4) A true record shall be made in a book kept for the purpose, the form of which may be prescribed by *the Mayor*, of all pistols, machine guns, and sawed-off shotguns in the possession of the licensee, which said record shall contain the date of purchase, the caliber, make, model, and manufacturer's number of the weapon, to which shall be added, when sold, the date of sale.

(5) A true record in duplicate shall be made of every pistol, machine gun, sawed-off shotgun, and blackjack sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by *the Mayor* of the District of Columbia and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other and shall contain the date of sale, the name, address, occupation, color, and place of birth of the purchaser, and, so far as applicable, the caliber, make, model, and manufacturer's number of the weapon, and a statement by the purchaser that the purchaser is not forbidden by § 22-4503 to possess a pistol [now "firearm"]. One copy of said record shall, within 7 days, be forwarded by mail to the Chief of Police of the District of Columbia and the other copy retained by the seller for 6 years.

(6) No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of said premises where it can readily be seen from the outside. No license to sell at retail shall be granted to anyone except as provided in this section.

(b) Any license issued pursuant to this section shall be issued by the Metropolitan Police Department as a Public Safety endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47 of the District of Columbia Official Code [§ 47-2851.01 et seq.].

- b. Discrepancy with the organic legislation:** The organic legislation referred to the “Commissioners” instead of the “Mayor.”
- c. Recommendation:** Keep the discrepancy so that § 22-4510 continues to refer to the “Mayor.” As Part 2.B.ii of this Appendix details, under the Home Rule Act, the “Mayor” is the correct replacement for the “Commissioners” in the organic legislation.

8. D.C. Code § 22-4515a. Manufacture, transfer, use, possession or transportation of certain devices.

- a. Relevant language:** Section 22-4515a prohibits the manufacture, transfer, use, possession, or transportation of a molotov cocktail, as well as other similar devices. The relevant language is italicized:

(a) No person shall within the District of Columbia manufacture, transfer, use, possess, or transport a molotov cocktail. As used in this subsection, the term "molotov cocktail" means: (1) a breakable container containing flammable liquid and having a wick or a similar device capable of being ignited; or (2) any other device designed to explode or produce uncontained combustion upon impact; but such term does not include a device lawfully and commercially manufactured primarily for the purpose of illumination, construction work, or other lawful purpose.

(b) No person shall manufacture, transfer, use, possess, or transport any device, instrument, or object designed to explode or produce uncontained combustion, with the intent that the same may be used unlawfully against any person or property.

(c) No person shall, during a state of emergency in the District of Columbia declared by *the Mayor* pursuant to law, or during a situation in the District of Columbia concerning which the President has invoked any provision of Chapter 15 of Title 10, United States Code, manufacture, transfer, use, possess, or transport any device, instrument, or object designed to explode or produce uncontained combustion, except at his or her residence or place of business.

(d) Whoever violates this section shall: (1) for the first offense, be sentenced to a term of imprisonment of not less than 1 and not more than 5 years; (2) for the second offense, be sentenced to a term of imprisonment of not less than 3 and not more than 15 years; and (3) for the third or subsequent offense, be sentenced to a term of imprisonment of not less than 5 years and not more than 30 years. In the case of a person convicted of a third or subsequent violation of this section, Chapter 402 of Title 18, United States Code (Federal Youth Corrections Act) shall not apply. For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the third or subsequent conviction for an offense defined by this section is a Class A felony.

(e) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

- b. Discrepancy with the organic legislation:** The organic legislation referred to the "Commissioner" instead of the "Mayor."

- c. Recommendation:** Keep the discrepancy so that § 22-4515a continues to refer to the “Mayor.” The organic legislation was congressionally approved in 1970,¹³ under the Reorganization Plan of 1967, but before the Home Rule Act of 1973. As Part 2.B.ii of this Appendix details, under the Home Rule Act, the “Mayor” is the correct replacement for “the Commissioner” in the organic legislation.

Part 2.B.ii: Discussion of history of D.C. Government.

In order to identify whether a statute should use “Mayor” or “Council” instead of an earlier form of D.C. government like the “Commissioners,” it is necessary to trace the delegation of power under that statute through two significant restructurings of District government: 1) The reorganization in 1967; and 2) The Home Rule Act.

The Reorganization of 1967

“From 1874 to 1967, the District of Columbia was governed by a three-member Board of Commissioners appointed by the President of the United States which held both legislative and executive power.”¹⁴ Statutes that originated during this time refer to both the “Board of Commissioners” and “the Commissioners.”

In 1967, the Reorganization Plan No. 3 of 1967 (“Reorganization Plan”) abolished the Board of Commissioners. In its place, there was a new “District of Columbia Council,” also referred to as the “Council,”¹⁵ and a new “Commissioner of the District of Columbia,” also referred to as the “Commissioner.”¹⁶

The Reorganization Plan specifically transferred the powers of the former Commissioners to the new District of Columbia Council and new Commissioner. Two sections of the Reorganization Plan should be highlighted. Section 401 of the Reorganization Plan addresses the transfer of powers from the abolished Commissioners to the new Commissioner:

Sec. 401. Transfer of functions to Commissioner. Except as otherwise provided in this reorganization plan, all functions of the Board of Commissioners of the District of Columbia, including all functions of the President of that Board and all functions of each other member of that Board and including also the executive power vested therein (D.C. Code, sec. 1-218), are hereby transferred to the Commissioner of the District of Columbia. (Emphasis added).

¹³ The legislative history in the D.C. Official Code lists § 22-4515a as being codified from the July 8, 1932 An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes (47 Stat 654). However, the Criminal Code Reform Commission cannot find the language of § 22-4515a in the 1932 Act. Rather, the section was added to the 1932 organic act in a 1970 amendment in the District of Columbia Court Reform and Criminal Procedure Act of 1970 (84 Stat. 603).

¹⁴ “About this Collection” on Dig DC website: <http://digdc.dclibrary.org/cdm/landingpage/collection/p16808coll8>.

¹⁵ Reorganization Plan No. 3 of 1967, § 201.

¹⁶ Reorganization Plan No. 3 of 1967, § 301.

Section 402 of the Reorganization Plan lists the specific powers of the abolished Board of Commissioners that are transferred to the new District of Columbia Council. Italics emphasize the statutes relevant to the discrepancies:

Sec. 402. *Transfer of functions to Council.* The following regulatory and other functions now vested in the Board of Commissioners of the District of Columbia are hereby transferred to the Council (subject to the provisions of section 406 of this reorganization plan):

[. . .]

12. CRIMINAL OFFENSES

(204) Restricting, prohibiting, regulating, and controlling hunting and fishing and the taking, possession, and sale of wild animals under D.C. Code, sec. 22-1628 [now 22-4328].

(205) Prescribing regulations regarding the disposal of property under D.C. Code, sec. 22-1630(a) (last sentence) [now 22-4330].

(206) Making, altering, and amending harbor regulations under D.C. Code, sec. 22-1701 [now 22-4401, which was repealed in 2015].

[. . .]

Reading Section 401 and Section 402 of the Reorganization Plan together, if Section 402 does not specifically transfer a statute to the District of Columbia Council, Section 401 transfers that function to the new Commissioner.

The Home Rule Act

The Home Rule Act of 1973 abolished the District of Columbia Council and the Commissioner that were formed under the 1967 Reorganization.¹⁷ The Home Rule Act replaced these institutions with the Council of the District of Columbia and the Mayor. Similar to the 1967 Reorganization Plan, the Home Rule Act specifically transferred power from the old institutions to the new.

The powers of the Council:

Under § 1-204.04, subject to specific limitations, any functions belonging to the former District of Columbia Council under the Reorganization Plan of 1967 are transferred to the new Council of the District of Columbia:

(a) Subject to the limitations specified in §§ 1-206.01 to 1-206.04, the legislative power granted to the District by this chapter is vested in and shall be exercised by

¹⁷ D.C. Code § 1-207.11.

the Council in accordance with this chapter. *In addition, except as otherwise provided in this chapter, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council, as established by Reorganization Plan No. 3 of 1967, shall be carried out by the Council in accordance with the provisions of this chapter.*¹⁸

[. . .]

The powers of the Mayor:

Under § 1-204.22, subject to specific limitations, any functions belonging to the former Commissioner under the Reorganization Plan of 1967 are transferred to the Mayor:

The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. *In addition, except as otherwise provided in this chapter, all functions granted to or vested in the Commissioner of the District of Columbia, as established under Reorganization Plan No. 3 of 1967, shall be carried out by the Mayor in accordance with this chapter.* The Mayor shall be responsible for the proper execution of all laws relating to the District, and for the proper administration of the affairs of the District coming under his jurisdiction or control, including but not limited to the following powers, duties, and functions¹⁹

As can be seen from the above discussion, a statute's designation under the Reorganization Plan of 1967 determines whether a statutory function is delegated to the Council or to the Mayor under the Home Rule Act and in the current statutory text. None of the exceptions referenced in § 1-204.04 or § 1-204.22 affect the statutes discussed in this Appendix.

The chart and discussion on the next page summarize the delegation of authority to the Council and the Mayor through the changes in the District government.

¹⁸ D.C. Code § 1-204.04(a) (emphasis added). The grant of legislative power is very broad: Except as provided in §§ 1-206.01 to 1-206.03, the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this chapter subject to all the restrictions and limitations imposed upon the states by the 10th section of the 1st article of the Constitution of the United States.

D.C. Code § 1-203.02.

¹⁹ D.C. Code § 1-204.22 (emphasis added).

Summary:

This chart summarizes the transfer of statutory functions from the initial Board of Commissioners to the current statutes.

Initial Designation	Designation under Reorganization Plan of 1967	Designation under Home Rule Act of 1973	Correct reference in current legislation
Board of Commissioners or Commissioners	District of Columbia Council, if specifically designated under § 402 (§ 402)	Council of the District of Columbia, unless otherwise provided (D.C. Code § 1-204.04)	Council of the District of Columbia
Board of Commissioners or Commissioners	The Commissioner, unless otherwise designated under the Plan (§ 401)	Mayor, unless otherwise provided (D.C. Code § 1-204.22)	Mayor

Of the statutes that have discrepancies with “Commissioners” or “Board of Commissioners” in the organic statutes, only two, § 22-4328 and the last sentence of § 22-4330(a), were specifically transferred to the former District of Columbia Council under Section 402 of the Reorganization Plan of 1967. Under the Home Rule Act, these statutes were transferred to the new Council of the District of Columbia and the current references to the Council of the District of Columbia are correct.

Some of the statutes that currently refer to the Council of the District of Columbia were not specifically transferred to the former District of Columbia Council under Section 402 of the Reorganization Plan: § 22-4329, § 22-4332(b), and § 22-4333. However, these statutes refer generally to the Council’s authority under the Game and Fish Laws chapter to make regulations, which is established in § 22-4328 and § 22-4330 and was transferred to the new Council of the District of Columbia under the Home Rule Act. The current references to the Council of the District of Columbia in § 22-4329, § 22-4332(b), and § 22-4333 are correct

The remaining statutes, the first part of § 22-4330(a), subsections (a) and (c) of § 22-4332, § 22-4402, § 22-4510, and § 22-4515a,²⁰ were not specifically transferred to the former District of Columbia Council under Section 402 of the 1967 Reorganization Plan. By default, under Section 401 of the Reorganization Plan, these statutes were transferred to the former

²⁰ Section 22-4515a was actually enacted in 1970 under the Reorganization Plan of 1967. Thus, its organic legislation refers to “the Commissioner.” It should be noted that the legislative history in the D.C. Official Code lists § 22-4515a as being codified from the July 8, 1932 An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes (47 Stat 654). However, the Criminal Code Reform Commission cannot find the language of § 22-4515a in the 1932 Act. Rather, the section was added to the 1932 organic act in a 1970 amendment in the District of Columbia Court Reform and Criminal Procedure Act of 1970 (84 Stat. 603).

Commissioner. Under the Home Rule Act, the Mayor replaced the Commissioner. The current references to the Mayor in these statutes are correct.

APPENDIX VII: CHARGING AND SENTENCING STATISTICS

Appendix VII provides the number of counts charged and sentenced from 2009-2014 for all offenses in the Report that the Criminal Code Reform Commission recommends be substantively amended, repealed, or codified. This appendix includes all obsolete offenses recommended for repeal; all common law offenses to be codified; and all offenses identified as unconstitutional. This appendix does not include statutes that the Criminal Code Reform Commission has recommended be technically amended or moved as part of Title 22 enactment. This appendix was based on data provided by the D.C. Sentencing Commission using its Guidelines Reporting Information Data System (GRID System) received on March 10, 2014 (covering 2009-2013), and June 2, 2015 (covering 2014).²¹

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
11-944	Contempt	5	16	30	26	28	23	29	11	17	0	0	0
22-1003	Rest, water and feeding for animals transported by railroad company.	0	0	0	0	0	0	0	0	0	0	0	0

²¹ It should be noted that the GRID System only includes adult information; it does not include juvenile information. It should also be noted that the Sentencing Commission gave notice in its 2015 Annual Report that some data had not been properly accounted for in previously provided data request responses: *See* page 33 of the *D.C. Sentencing Commission and Criminal Code Revision Commission 2015 Annual Report*, available at: <http://scdc.dc.gov/sites/default/files/dc/sites/scdc/publication/attachments/Annual%20Report%202015%20Website%205-2-16.pdf> (last accessed 10/27/16). The Sentencing Commission also has given notice that there may be data reliability and validity issues with the supplied GRID data for 2009 and misdemeanors. The Criminal Code Reform Commission has requested updated charging and sentencing data from the Sentencing Commission to confirm that the offenses identified as archaic and unused in this Report were not charged in 2010-2015, but has not yet received any data.

Second Draft of Appendices to Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes (1-25-17)

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
22-1012(a)	Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.	0	0	0	0	0	0	0	0	0	0	0	0
22-1102	Refusal or neglect of guardian to provide for child under 14 years of age	0	0	0	0	0	0	0	0	0	0	0	0
22-1301	Affrays	0	0	0	0	0	0	0	0	0	0	0	0
22-1308	Playing games in streets	0	0	0	0	0	0	0	0	0	0	0	0
22-1714	Immunity of witnesses; record	0	0	0	0	0	0	0	0	0	0	0	0
22-1803	Attempts to commit a crime	0	0	0	0	0	0	0	0	0	0	0	0
22-1805	Aiding and abetting	0	0	0	0	0	0	0	0	0	0	0	0
22-1805a	Conspiracy	18	47	22	39	65	57	105	42	76	25	65	31
22-1806	Accessories after the fact	0	0	0	0	0	0	0	0	0	0	0	0
22-1807	Punishment for offenses not covered by provisions of Code	0	0	0	0	0	0	0	0	0	0	0	0

Second Draft of Appendices to Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes (1-25-17)

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
22-2105	Manslaughter	12	39	9	33	25	30	22	26	28	24	24	26
22-2107	Solicitation of murder or other crimes of violence	0	0	0	0	0	0	0	0	0	0	0	0
22-2511	Presence in a motor vehicle containing a firearm. [Repealed]	0	0	7	0	32	12	35	8	40	0	2	0
22-2722	Keeping bawdy or disorderly houses	0	0	0	0	1	0	2	2	0	1	0	2
22-3303	Grave robbery; buying or selling dead bodies	0	0	0	0	0	0	0	0	0	0	0	0
22-3307	Destroying or defacing public records	0	0	0	0	0	0	0	0	0	0	0	0
22-3309	Destroying boundary markers	0	0	0	0	0	0	0	0	0	0	0	0
22-3313	Destroying or defacing building material for streets	0	0	0	0	0	0	0	0	0	0	0	0
22-3314	Destroying cemetery railing or tomb	0	0	0	0	0	0	0	0	0	0	0	0

Second Draft of Appendices to Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes (1-25-17)

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
22-3319	Placing obstructions on or displacement of railway tracks	0	0	0	0	0	0	0	0	0	0	0	0
22-3320	Obstructing public road; removing milestones	0	0	0	0	0	0	0	0	0	0	0	0
22-401	Assault w/intent to kill, rob, poison, commit 1 st deg. Sexual abuse, 2 nd deg. Sexual abuse or child sexual abuse	59	98	47	67	127	95	139	67	217	50	216	45
22-402	Assault with intent to commit mayhem or with a dangerous weapon	181	156	1555	154	316	137	339	181	405	142	421	170
22-403	Assault with intent to commit any other offense	2	0	3	1	4	0	7	0	3	0	4	2
22-404	Assault or threatened assault in a menacing manner; stalking	2831	1433	2658	1434	3987	1460	4285	1463	4476	1307	4462	1386
22-406	Mayhem or malicious disfiguring	0	4	1	3	7	4	4	8	28	2	14	0

Second Draft of Appendices to Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes (1-25-17)

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
22-407	Threats to do bodily harm	863	386	809	400	1184	383	1258	396	1349	354	1478	413
22-4512	Alteration of Identifying Marks of Weapons	0	0	0	0	0	0	0	0	0	0	0	0
22-4514	Possession of certain dangerous weapons prohibited; exceptions	689	255	539	240	851	239	953	234	1007	235	1028	220
2-381.09	Penalties for false representations	0	0	0	0	0	0	0	0	0	0	0	0
3-206	Unlawful acts	0	0	0	0	0	0	0	0	0	0	0	0
34-701	False statements in securing approval for stock issue	0	0	0	0	0	0	0	0	0	0	0	0
34-707	Destruction of apparatus or appliance of Commission	0	0	0	0	0	0	0	0	0	0	0	0
36-153	Unauthorized use, defacing, or sale of registered vessel	0	0	0	0	0	0	0	0	0	0	0	0

Second Draft of Appendices to Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes (1-25-17)

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
36-154	Use or possession of vessel without purchase of contents prima facie evidence of unlawful use.	0	0	0	0	0	0	0	0	0	0	0	0
4-125	Assisting child to leave institution without authority; concealing such child; duty of police	0	0	0	0	0	0	0	0	0	0	0	0
45-401	Reception Statute	0	0	0	0	0	0	0	0	0	0	0	0
47-102	Total indebtedness not to be increased	0	0	0	0	0	0	0	0	0	0	0	0
48-904.09	Attempt, conspiracy for drug offenses	0	0	0	0	0	0	0	0	0	0	0	0
7-2506.01	Unlawful Possession of Ammunition	376	165	342	159	558	135	623	150	703	184	759	184
7-2506.01(b)	Possession of Large Capacity Ammunition Feeding Device	52	7	23	7	21	0	6	1	0	0	0	0
8-304	Plant diseases and insect pest control.	0	0	0	0	0	0	0	0	0	0	0	0
8-305	Penalty.	0	0	0	0	0	0	0	0	0	0	0	0

Second Draft of Appendices to Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes (1-25-17)

Statute	Name	'14 Ch.	'14 Sent.	'13 Ch.	'13 Sent.	'12 Ch.	'12 Sent.	'11 Ch.	'11 Sent.	'10 Ch.	'10 Sent.	'09 Ch.	'09 Sent.
9-431.01	Cutting Trenches in Highways	0	0	0	0	0	0	0	0	0	0	0	0
9-431.02	Penalty; prosecution	0	0	0	0	0	0	0	0	0	0	0	0
9-433.01	Permit required; exceptions	0	0	0	0	0	0	0	0	0	0	0	0
9-433.02	Penalty; prosecution	0	0	0	0	0	0	0	0	0	0	0	0

APPENDIX VIII: COMMENTS RECEIVED FROM ADVISORY GROUP

| {Advisory Group comments [will beare](#) listed here in the order of their receipt.}

Comments of U.S. Attorney's Office of the District of Columbia on D.C. Criminal Code Commission Phase I Materials (Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes)

Submitted Jan. 11, 2017

The U.S. Attorney's Office for the District of Columbia maintains the positions it previously has articulated in its correspondence on December 18, 2014, to the former D.C. Sentencing and Criminal Code Revision Commission, and on June 16, 2016, to Kenyan McDuffie (then chairman of the Committee on the Judiciary & Public Safety of the District of Columbia Council). In response to the request of the District of Columbia Criminal Code Reform Commission, we provide the following preliminary comments on the Phase I materials (Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes) provided for Advisory Group review:

- Page 17 (Final paragraph that begins "Enactment of Title 22 . . ." and FN48)
 - This paragraph states that "[e]stablished canons of construction state that legislative intent is the primary principle of statutory interpretation"
 - However, this language (and accompanying text of footnote 48) relies on old cases that give legislative history more weight.
 - The current trend is to rely exclusively on the plain meaning of the text, if it is clear.
 - It is only if there is some resulting ambiguity or absurdity that the court looks to legislative history.
 - The language here, therefore, likely will not change how the District of Columbia Court of Appeals proceeds. *See, e.g., In re Smith*, 138 A.3d 1181, 1185 n.8 (D.C. 2016) (citing *In re Al-Baseer*, 19 A.3d 341, 344 (D.C.2011) ("The court's task in interpreting a statute begins with its language, and, where it is clear, and its import not patently wrong or absurd, our task comes to an end.")).
- Page 18 (Final paragraph before Section VII (Conclusion) and FN 49)
 - This paragraph states that "[b]y adopting this language in Appendix IX, the Council would explicitly reject any argument that prior court rulings construing

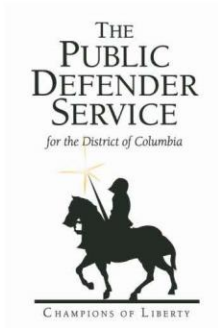
the language of unenacted Title 22 statutes are being given tacit or explicit legislative approval through enactment.”

- This refers to the prior paragraph which states that “Title 22 . . . is enacted into law . . . with no substantive change to law intended except as otherwise noted in the ‘Statement of Legislative Intent for Enactment of Title 22’ included in this bill.”
- N.B.: The court still could construe reenactment as approval, by interpreting the “intends no substantive change” language as meaning “no substantive change” to the statute *as it has been interpreted* by the Court *at the time of enactment*.

➤ APPENDICES

- IV: Common Law Offenses List & Text; Part 2 (Offenses w/ Only a Penalty Codified)
 - What will the basis for “elementizing” the substance of these offenses be? The Advisory Group should agree and recommend to the Commission that any such elementizing be based, as an initial matter, on the relevant jury instruction crafted by the “Redbook Committee” (to the extent that any such instruction exists) that provides guidance as to the elements of the particular uncodified offense.
- V: Relocation of Title 22 Provisions List and Text
 - There is no objection to reorganization of various sections to reflect a more sensible structure.
 - However, the Commission should exercise great care when reorganizing evidentiary provisions (in particular) so as to avoid important provisions getting “lost” (*e.g.*, D.C. Code Section 22-3021, regarding the inadmissibility of reputation or opinion evidence of a victim’s past sexual behavior).
 - Cross-references within Title 22 -- as well as reorganization by subject, category, statute, etc., when provisions are moved to other titles -- should be employed.

MEMORANDUM



To: Richard Schmechel, Executive Director
D.C. Criminal Code Reform Commission

From: Laura E. Hankins, General Counsel

Date: January 13, 2017

Re: Comments on First Draft of Report #1:
Recommendations for Enactment of D.C.
Code title 22 and Other Changes to
Criminal Statutes

In general, the Public Defender Service approves the recommendations in the first draft of Report #1. The Report and accompanying Appendices reflect the numerous hours of painstaking work done by the D.C. Sentencing Commission Code Revision Project staff in 2014 and 2015 and the considerable work done by the Commissioners working on the Code Revision Project. PDS particularly appreciates that the D.C. Criminal Code Reform Commission is not merely resubmitting to the D.C. Council the September 2015 report that was unanimously approved the D.C. Sentencing Commission. Rather, the Criminal Code Reform Commission has revisited its work and makes a number of additional recommendations. For example, the September 2015 report recommended deleting D.C. Code § 22-3306 as one of many archaic and unused offenses in the D.C. Code but now recognizes that such deletion may conflict with the Home Rule Act.

Report #1 is an important first step by the Commission towards the fulfillment of its mandate. Specifically, the Report and accompanying Appendices satisfy or make considerable progress towards completing the Commission's mandate that it identify criminal statutes that have been held unconstitutional and recommend their amendment; identify crimes defined in common law that should be codified; organize existing criminal statutes in a logical order; and most notably, enable the adoption of Title 22 as an enacted title of the D.C. Official Code. PDS notes however that the more important and, not coincidentally, more difficult work of the Commission is still to come. Revising the language of the District's criminal statutes to describe all elements, including mental states, that must be proven; reducing unnecessary overlap and gaps between criminal offenses; and adjusting penalties, fines, and the gradation of offenses to provide for proportionate penalties are, in the view of PDS, the most critical aspects of the Commission's mandate and must be done if the District is to have a fair, just and modern criminal justice system.

January 13, 2017
Page 2

PDS suggests the following edits to the Report:

1. In the first sentence of footnote 16 insert a space between “to” and the section symbol,”§,” for statute 36-153.
2. In Part A. Findings, of Section II, Technical Amendments to Correct Outdated Language,¹ change the word “discussed” to “stated,” to have that sentence read, “The ...Commission has identified thirty-seven statutes in eleven titles of the D.C. Code that contain outdated language within the above stated parameters.” The paramaters are not “discussed” in the preceding paragraph, only outlined. Any discussion, or explanation, of the parameters would seem to be in the September 2015 report that was submitted to the Council, which the preceding paragraph references.
3. In Subpart 1, D.C. Code § 7-2506.01, of Part A., Findings, of Section III, Unconstitutional Statutes to Amend,² state what the extra element is. The explanation need not be in the text and can be relegated to a footnote, but the report is unnecessarily vague without it.
4. Delete the extra word in the text of the sentence containing footnote 50. “Established judicial canons of construction...⁵⁰ and the proposed enactment legislation ~~is~~ flatly states in the ‘Statement of Legislative Intent....’”

¹ At page 8.

² At page 10.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General for the District of Columbia

Public Safety Division



MEMORANDUM

TO: Richard Schmechel
Executive Director
D.C. Criminal Code Reform Commission

FROM: Dave Rosenthal
Senior Assistant Attorney General

DATE: January 13, 2017

SUBJECT: Comments to D.C. Criminal Code Reform Commission First Draft of Report #1
Recommendations for Enactment and Other Changes

The Office of the Attorney General for the District of Columbia (OAG) and the other members of the Code Revision Advisory Group of the D.C. Criminal Code Reform Commission (CCRC) were asked to review the Commission's First Draft of Report #1 Recommendations for Enactment and Other Changes (the Report). OAG reviewed this document and makes the recommendations noted below.¹

COMMENTS ON THE DRAFT REPORT

Archaic and Unused Offenses in Title 22

Though OAG does not oppose repealing the recommended provisions contained in Appendix I, we do not agree that just because an offense had not been charged in adult court in the past 7 years means that the offense is necessarily archaic or unused.²

¹This review was conducted under the understanding that the structure of the code revision process allows the members of the Code Revision Advisory Group an opportunity to provide meaningful input without limiting the position that the members may take at any subsequent hearing that the Council may have on any legislation that may result from the Report.

²See footnote 8 of the Report which states that the CCRC reviewed two data sets which included 1) a list of all felonies or misdemeanors charged or sentenced from 2009 – 2014; and 2) a list of all felonies for which a defendant had been sentenced for 2010 – 2015.

Footnote 13, on page 7 of the Report, observes that five of the offenses proposed to be eliminated are closely related to the contemporaneous Malicious Destruction of Property statute, and therefore suggests that the legislative history of the bill associated with the Report should indicate that the current Malicious Destruction of Property statute - and therefore the codified version of it in this bill - does not automatically exclude the conduct covered by those five statutes. Since the purpose of this history appears to state the current Council's interpretation of existing law, we believe that that this observation in the legislative history may carry little interpretive weight. *See, e.g., Pension Benefit Guaranty Corp. v. LTV Corp.*, 496 U.S. 633, 650 (1990) ("subsequent legislative history is a hazardous basis for inferring the intent of an earlier Congress") (internal quotation omitted). We, therefore, recommend that the text of the bill be amended to explicitly state that conduct that had previously been prohibited by these provisions are covered by the remaining provision.

In Appendix I, Archaic and Unused Offenses and Provisions List & Text, the Report recommends striking the phrase "the Women's Bureau of the Police." from D.C. Official Code § 22-2703.³ OAG objects to the mere striking of the phrase and instead suggests that the phrase be replaced with a reference to the Metropolitan Police Department (MPD). D.C. Official Code § 22-2703 permits the court to impose conditions upon a person who is found guilty of engaging in prostitution or soliciting for prostitution in violation of D.C. Official Code § 22-2701. Section 22-2703 states "...The Department of Human Services of the District of Columbia, the Women's Bureau of the Police Department, and the probation officers of the court are authorized and directed to perform such duties as may be directed by the court in effectuating compliance with the conditions so imposed upon any defendant." Removal of the reference to "the Women's Bureau of the Police Department" would remove law enforcement's authorization and direction to perform certain duties. Replacing "the Women's Bureau of the Police Department" with a reference to MPD would modernize the language contained in this Code provision while preserving the current state of the law.

³ D.C. Official Code § 22-2703, Suspension of sentence; conditions; enforcement, states, "The court may impose conditions upon any person found guilty under § 22-2701, and so long as such person shall comply therewith to the satisfaction of the court the imposition or execution of sentence may be suspended for such period as the court may direct; and the court may at or before the expiration of such period remand such sentence or cause it to be executed. Conditions thus imposed by the court may include an order to stay away from the area within which the offense or offenses occurred, submission to medical and mental examination, diagnosis and treatment by proper public health and welfare authorities, and such other terms and conditions as the court may deem best for the protection of the community and the punishment, control, and rehabilitation of the defendant. The Department of Human Services of the District of Columbia, the Women's Bureau of the Police Department, and the probation officers of the court are authorized and directed to perform such duties as may be directed by the court in effectuating compliance with the conditions so imposed upon any defendant."

Technical Amendments to Correct Outdated Language

In Appendix II: Technical Amendments List & Text there is a list of Technical Amendments to Statutes in Title 22. See page 10 of Appendices I-VIII. Included in the list is a recommendation pertaining to D.C. Official Code § 22-811, Contributing to the delinquency of a minor. The recommendation is to strike subsection (e) delegating prosecutorial authority to the Attorney General or his or her assistants. OAG would ask that the Commission remove this recommendation. We believe that do to an early Congressional grant of authority, OAG has jurisdiction to prosecute misdemeanor offenses under this provision.

Common Law Offenses to Repeal and Further Codify

The Report recommends that the Council repeal the common law offense of “disturbing public worship.” While OAG does not object to its repeal, the Report should note that D.C. Official Code § 22-1314 initially codified this offense and, upon its repeal was replaced with D.C. Official Code § 22-1321 (b). D.C. Official Code § 22-1321 (b) states, “ It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct, with the intent and effect of impeding or disrupting the orderly conduct of a lawful public gathering, or of a congregation of people engaged in any religious service or in worship, a funeral, or similar proceeding.”

Relocation of Title 22 Provisions to Other D.C. Code Titles

The Report states, on page 15, that “In addition, § 22-4331, which codifies a penalty for violations of Game and Fish laws in Chapter 43 of Title 22 is no longer recommended for removal because it is a penalty provision. The remainder of Chapter 43 is still recommended for removal. ” While OAG agrees that this penalty provision should not be moved, we also believe that D.C. Official Code § 22-4329 also should not be moved. This provision makes it an offense for a person to refuse to permit an inspection.⁴ The penalty for refusing to permit an inspection is found in § 22-4331 and, so, should also be kept in Chapter 43. A conforming amendment would also have to be made to § 22-4329, similar to the conforming amendment needed for § 22-4331, that would replace the language “for the purpose of enforcing the provisions of this chapter and the regulations promulgated by the Council of the District of Columbia under the authority of this chapter” with the citation to wherever the remainder of Chapter 43 is moved.

Enactment of Title 22

⁴ D.C. Official Code § 22-4329, Inspection of business or vocational establishments requiring a license or permit or any vehicle, boat, market box, market stall or cold storage plant, during business hours, states “Authorized officers and employees of the government of the United States or of the government of the District of Columbia are, for the purpose of enforcing the provisions of this chapter and the regulations promulgated by the Council of the District of Columbia under the authority of this chapter, empowered, during business hours, to inspect any building or premises in or on which any business, trade, vocation, or occupation requiring a license or permit is carried on, or any vehicle, boat, market box, market stall, or cold-storage plant. No person shall refuse to permit any such inspection.

The discussion concerning enactment of Title 22 indirectly cites language that is codified in the United States Code and describes the status of the D.C. Official Code. See pages 15-18 of the Report. The discussion states that Title 22 will remain a prima facie statement of District law unless it is enacted into the Code, but the discussion then references statutory language (and case language) stating that the D.C. Official Code “*shall . . . establish prima facie the laws*” of the District. 1 U.S.C. § 204(b) (cited on page 16, footnote. 48). The Council’s authority to enact titles of the D.C. Official Code into positive law is, to OAG’s understanding, long settled, but to avoid any confusion, it may be beneficial to accompany that statutory and case cite with a brief citation to the Council’s legislative power.

Page 18 of the Report quotes section 102 of the bill as saying “Title 22 of the District of Columbia Official Code is enacted into law to read as follows, *with no substantive change to law intended, except as otherwise noted in the “Statement of Legislative Intent for Enactment of Title 22” included in this bill.*” The actual draft bill does not contain the italicized language and, so, should be amended accordingly.

Page 18 also discusses the significance of statements about the intent of the bill. It states that by adopting these statements, the bill would “explicitly reject any argument that prior court rulings construing the language of unenacted Title 22 statutes are being given tacit or explicit legislative approval through enactment.” That is not correct. The only way for provisions of Title 22 to mean the same thing post-enactment that they meant pre-enactment is for controlling judicial constructions of their pre-enactment language to carry through into the enacted bill. Stripping away controlling judicial interpretations of a provision would be tantamount to amending that provision.

COMMENTS ON THE DRAFT BILL

The very beginning of the bill, prior to any numbered sections, includes a “Statement of Legislative Intent.” A Statement of Legislative Intent would be beneficial as part of this bill’s legislative history, but in order for it be incorporated into the bill, it should be given a section number, formatted according to the “Council of the District of Columbia Legislative Drafting Manual”, and placed after the “Be It Enacted” portion.

The bill’s amendment to D.C. Official Code § 50-1401.01(a)(3) would replace several references to “him” with references to “him or her.” It would leave untouched, however, the final phrase “whenever demand is made by a police officer such instructor shall display *to him* such certificate.” For consistency, this should be replaced with “to him *or her*.”

The bill repeals D.C. Official Code § 36-153, Unauthorized use, defacing, or sale of registered vessel. The bill also makes a conforming amendment to § 36-154, Use or possession of vessel without purchase of contents prima facie evidence of unlawful use. The conforming amendment replaces the reference to § 36-153 with the penalty provision that is currently contained within that Code section. While making this conforming amendment, OAG suggests that the title to § 36-154 be amended. Once § 36-153 is repealed, § 36-154 would be a

standalone Code provision. While this offense does establish when there is prima facie evidence of unlawful use, it also establishes an offense. We, therefore, recommend that the Title of this offense be shortened and renamed, "Use or possession of vessel without purchase."