

Councilmember Phil Mendelson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Phil Mendelson introduced the following bill, which was referred to the Committee on _____.

To create a process to allow for nuisance actions against criminal street gangs; to give arrest powers to certain correctional officers; to amend Chapter 572 of _____, effective December 15, 1941 to prohibit the introduction of cellular telephone or other portable communication device; to amend the Act codifying the District of Columbia Code, 56th Congress, Session II, Chapter 854, Subchapter 25 to suspend the marital privilege under certain circumstances, including where a spouse or domestic partner is accused of intra-family offenses or committing a crime prior to the marriage, or is testifying in a civil proceeding involving child abuse and neglect; to amend An Act to enact Part II of the District of Columbia Code, entitled "Judiciary and Judicial Procedures," effective December 23, 1963, to suspend the physician-patient privilege in certain proceedings where a person is suspected or charged with causing the death of, or injuring a human being, or with attempting or threatening to kill or injure a human being, or where a person is suspected of defrauding a health care benefit program; to amend The District of Columbia Elections Code of 1055ny prohibiting the destruction or defacing of campaign materials; To amend section 1002(c) of chapter 10 of title 16 of the District of Columbia code to allow the testimony of a respondent to be used in a criminal prosecutions derivative purposes, to impeach the respondent, and in prosecutions for perjury or committing false statements; to amend Section 211a of Chapter 159 _____ approved June 29, 1953 to restate the crime of disorderly conduct; to repeal Section 6 of chapter 320 of _____, approved July 29, 1892; to amend section 1 of An Act for the suppression of prostitution in the District of Columbia, approved August 15, 1935 to create a new penalty structure for prostitution; to amend section 104(b)(1) of the Omnibus Public Safety Amendment of 2006 to increase the time limit of a prostitution zone from 10 days to 20 days; to amend the District of Columbia Theft and White Collar Crimes Act of 1982 to create the crime of theft from motor vehicle; to amend section 1 of an Act to define and punish vagrancy in the District of Columbia, and for other purposes, approved December 17, 1941; to amend the the Bias-Related Crime Act of 1989 to add homelessness to the protected class; to amend section 3(a) of the Anti-Loitering/Drug Free Zone Act of 1996 to increase the time of a drug free zone from 10 days to 20 days; to amend the Establishment of the Office of the Chief Medical

Examiner Act of 2000 to authorize the Mayor to waive, until April 13, 2013, the requirement that the Chief Medical Examiner for the District of Columbia be certified in forensic pathology by the American Board of Pathology or be eligible for such certification; to prohibit persons required to wear a detection device as a condition of supervision to remove, intentionally alter, interfere or mask the operation of the device, or to allow any unauthorized person to do so and to allow a law enforcement officer to make an arrest without a warrant for said violation; to amended the Title III of the District of Columbia Mental Health Information Act of 1978 to require disclosures of mental health information for criminal justice purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Safety and Justice Amendments Act of 2009".

TITLE 1

Section 101. Anti-Gang Civil Enforcement.

(a) Findings and Declaration of Necessity.

The purpose of this subchapter is to create a mechanism so that civil actions may be brought to enjoin gangs and gang members from engaging in activities which create a public nuisance. In furtherance of this purpose, it is hereby declared that the continued growth of gangs has contributed to the increase in the incidence of violent crime in the District of Columbia. Gang members intimidate the law-abiding residents of the area with their presence and threaten retaliation against persons who cooperate with law enforcement efforts. Gangs operating as organizations are establishing themselves within distinct territories areas and are committing crimes within those areas. Citizens have noted an increase in gang-related tagging and graffiti as well as gang members displaying gang colors and using gang-related hand signs. Gangs are also responsible for quality of life crimes, such as drinking, using controlled substances in public, and disturbing the peace. Such gang activity injures the health, safety and security of the District's

citizens, frightens or intimidates them, obstructs the free use of both private and public property, 1
and interferes with the comfortable enjoyment of the lives and property of the District’s 2
residents, and is therefore a nuisance. The enactment of this subchapter is hereby declared to be 3
a public necessity. 4

(b) Definitions. 5

As used in this section: 6

(1) “Criminal street gang” has the same meaning as defined in section 101 of the 7
Omnibus Public Safety Amendment Act of 2006 (D.C. Law 306; D.C. Official Code §22-951(e). 8

(2) “Gang activity” means the violation of two or more criminal laws of the District, or 9
any other jurisdiction, except for acts of civil disobedience, that are committed by two or more 10
members of the criminal street gang or that are committed for the benefit of the criminal street 11
gang or any of its members. 12

(4) “Public space” means a street, alley, sidewalk, bridge, path or other vehicular or 13
pedestrian right-of-way, a park, a public building, a private building that is open to the public, 14
public housing, or the exterior of any public or private building, including but not limited to 15
yards, stairs, stoops, and porches. 16

(c) Public Nuisance; Gang Activity. 17

It is a public nuisance for a criminal street gang to engage in gang activity in any private 18
place or public space in the District of Columbia or to use any private place or public space in the 19
District of Columbia as a base for engaging in gang activity in another jurisdiction. 20

(d) Public Nuisance; Use of Public Space. 21

It is a public nuisance for any member of a criminal street gang to congregate in or on a 22

public space with any other member of that criminal street gang to create a pattern of nuisance activity. A “pattern of nuisance activity” consists of anything which affects at the same time an entire community or neighborhood or any substantial portion thereof, and is:

1) Injurious to health, including, but not limited to, the illegal sale of controlled substances, so as to interfere with the comfortable enjoyment of life or property;

2) Indecent or offensive to the senses, so as to interfere with the comfortable enjoyment of life or property;

3) An obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

4) Unlawfully obstructing the free passage or use, in the customary manner, of any public park, square, street or highway; or

5) A nuisance per se.

(e) Suit to Abate Nuisance.

(1) The Mayor may file a civil complaint in the Civil Division of the Superior Court of the District of Columbia to enjoin a public nuisance under this section.

(2) The complaint must identify at least three criminal street gang members upon whom service will be made on behalf of the gang.

(3) In addition to the criminal street gang, any person who associates with others to engage in gang activity as a member of a criminal street gang may be made a defendant in the suit. Any person who owns or is responsible for maintaining a place that is used for engaging in gang activity also may be made a defendant in the suit.

(4) The Mayor shall not be required to furnish bond or security.

(5) Such actions shall be in equity and shall be tried without a jury. 1

(6) The Mayor shall establish the existence of the public nuisance by a clear and 2
convincing evidence. 3

(f) Service of Process. 4

(1) Prior to filing the complaint, the Mayor shall send letters via first-class mail, 5
postage prepaid, to the last known address of at least three criminal street gang members who will 6
be named in the complaint advising them that a complaint will be filed against the criminal street 7
gang and that a motion will be filed with the court to designate those criminal street gang 8
members as persons to be served on behalf of the entity. 9

(2) The Mayor shall file the complaint and a motion to designate persons to receive 10
service on behalf of the entity. 11

(3) Each named member of the criminal gang shall be served with the complaint. 12

(4) Notice of the hearing shall be hand delivered or sent to each named member 13
via first-class mail, postage prepaid, to the individual's last known address. 14

(5) At the hearing, the Mayor shall submit documentation or other evidence 15
showing that each of the persons named in the letters is a member of the criminal street gang. The 16
Mayor may supplement the documentation with evidence presented at the hearing. Evidence 17
which is material and relevant shall be admissible at the hearing. 18

(6) If the Mayor proves by clear and convincing evidence that one or more of the 19
persons to whom letters of designation were sent are members of the criminal street gang, the 20
court shall designate those individuals to receive service of process on behalf of that entity. 21
Service of process may be made in court on any named individual who appears at the hearing and 22

is designated as an individual who may be served on behalf of the criminal street gang. 1

(g) Protection of Witnesses. 2

If proof of the existence of the public nuisance depends, in whole or in part, upon 3
information from one or more witnesses who are not law enforcement officers, the court in its 4
discretion may issue an order to protect those witnesses, including, but not limited to, placing 5
under seal the supporting affidavits or the portions thereof that would identify, directly or 6
indirectly, the witness or witnesses and the information the witness or witnesses provided. The 7
court shall issue such other orders as are necessary to protect a witness who is not a law 8
enforcement officer, including an order that the name, address, identifying features, and other 9
information that, directly or indirectly, may identify a witness responding to interrogatories or 10
depositions shall not be disclosed to respondents or any other person. Upon the motion of a 11
respondent or his/her attorney, the court may conduct an *in camera, ex parte* hearing, under seal, 12
attended only by the witness and the Mayor or his/her designee, and the attorney(s) for the 13
respondent(s) to verify that the witness or witnesses live in the neighborhood that is affected by 14
the gang activity. If the Mayor establishes probable cause to believe that one or more members of 15
the criminal street gang have committed a crime of violence as defined in D.C. Official Code § 16
23-1331 or have violated chapter 45 of Title 22, or if the Mayor establishes clear and convincing 17
evidence to believe that there is any other reason not to disclose the name, address, identifying 18
features, and other information that, directly or indirectly, may identify a witness who is not a law 19
enforcement officer, the Court may order that such information not be disclosed to any other 20
person, including, but not limited to the attorney's client or any other respondent. 21

(h) Preliminary Injunction. 22

(1) The Mayor may file a motion for preliminary injunction. The hearing shall be held within 10 business days of the filing of the motion. If it appears, by affidavit or otherwise, that there is a substantial likelihood that the government will be able to prove that the public nuisance exists, the court may enter an order preliminarily enjoining the nuisance and granting such other relief as the court may deem appropriate, including those remedies provided in paragraph (i). Where appropriate, the court may order a trial of the action on the merits to be advanced and consolidated with the hearing on the motion for preliminary injunction.

(2) Nothing in this subsection shall be construed to prohibit the application for or the granting of a temporary restraining order, or other equitable relief provided by law.

(i) Permanent Injunction.

(1) A hearing shall be held on the complaint.

(2) If the court finds that the actions of a criminal street gang constitute a public nuisance, the court shall enter a Gang Injunction permanently enjoining, abating, and preventing the continuance or recurrence of the nuisance. The Gang Injunction shall be directed against the criminal street gang and its respective members prohibiting specified activities in a defined geographic area which shall be no larger than deemed necessary to abate the targeted gang's nuisance activity.

(3) The Gang Injunction shall include an "enforcement list" which includes the name of criminal gang members who have been served pursuant to this act.

(4)(A) The Gang Injunction shall enjoin:

(i) the criminal street gang and its members from engaging in gang activities; and

(ii) the criminal street gang members from associating or congregating with one or more other enjoined criminal street gang members in public space within a defined geographic area;

(B) The Gang Injunction also may impose other reasonable requirements to prevent the criminal street gang from engaging in future gang activities. These requirements may include, but are not limited to, prohibiting criminal street gang members from:

(i) Using private property for gang activities;

(ii) Confronting, intimidating, annoying, harassing, threatening, challenging, provoking, or assaulting any person;

(iii) Possessing or knowingly remaining in the presence of anyone who is in possession of any firearm, ammunition, or other weapon;

(iv) Possessing or knowingly remaining in the presence of anyone who is in possession of any controlled substance or drug paraphernalia;

(v) Being present on any private property within a defined geographic area without the written consent of the owner;

(vi) Defacing any public or private property;

(vii) Possessing graffiti material, as that term is defined in the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982, effective June 12, 2001 (D.C. Law 4-203; D.C. Official Code § 22-3312.05(5)); and

(viii) Violating a court-defined curfew.

(5) A suspected gang member will not be subject to enforcement of the Gang Injunction unless he or she has been personally served with the injunction.

(6) Any Gang Injunction issued pursuant to paragraph (1) shall also be effective as to a non-defendant in the suit, if:

(A) The Metropolitan Police Department presents to the Mayor information that the person was a member of a criminal street gang at the time that the suit was filed, even though the person was not made a defendant in that suit, or has joined a criminal street gang after the filing of the suit;

(B) The Mayor reviews the information and determines that the person was a member of the criminal street gang at the time that the suit was filed but was not made a defendant in that suit or has joined the criminal street after the filing of the suit;

(C) The Mayor approves serving the person with a copy of the court Gang Injunction and a list of the persons who are subject to the Gang Injunction;

(D) A copy of the court Gang Injunction and list of the persons who are subject to the Gang Injunction is served upon the person; and

(E) A copy of the return of service on the person is filed in the Superior Court.

(7) If the court finds that a place is used in a manner that constitutes a public nuisance, the court may include in its Gang Injunction reasonable requirements to prevent the use of the place for gang activity.

(j) Violation of Injunction

A person who violates a temporary or permanent Gang Injunction under this section shall be subject to a fine of not less than \$1,000 nor more than \$10,000, imprisonment for not less than 180 days nor more than 1 year; or both. This penalty shall be in addition to any penalty for

contempt issued by a court. 1

(k) Appeal 2

If an appeal is not taken by a person temporarily enjoined under this section, the 3
person is entitled to a trial on the merits not later than 60 days after the date on which the 4
preliminary injunction was issued. 5

(l) Injunction for Specified Period 6

In addition to any other order that may be issued under this section or other law, a court of 7
appeals or a trial court acting under subsection (h)(2) may issue an Gang Injunction stating that 8
the injunction remains in effect during the course of the trial or until lifted by the court. 9

(m) Injunction Review and Termination of Gang Affiliation. 10

(1) The Mayor shall promulgate regulations within 120 days of the effective date of 11
this act detailing the process to provide relief to enjoined gang members who disaffiliate with the 12
enjoined gang. 13

(2) Upon the submission, review and corroboration of new evidence, the Office of 14
the Mayor may petition the court to release an enjoined member from the court Gang Injunction. 15

(3) A person on an injunction's enforcement list may petition the Court at any time 16
to be removed from the List. 17

(n) Periodic Review 18

(1) Two years from the anniversary date of a Gang Injunction, or as soon thereafter 19
as reasonably possible, and every two years thereafter, the court shall review all available relevant 20
and reliable information concerning gang membership and affiliation for each person subject to 21
enforcement of the Gang Injunction ("Periodic Review"). 22

(2) The purpose of the Periodic Review shall be to determine whether any person should be released from the Gang Injunction due to changed circumstances.

(3) A person shall be removed from the Enforcement List if the Mayor reasonably concludes, based upon all available relevant and reliable information, that the person is:

(A) no longer a member of the enjoined gang; and

(B) no longer acting, directly or indirectly, to promote, further, or assist the gang's criminal or nuisance activity.

(5) Rebutable Presumption

For purposes of periodic review, there shall be a rebuttable presumption that a person on the Enforcement List qualifies for removal from the List if, during the three years preceding the Periodic Review:

(A) the person was not at any time in custody or on parole, probation, or a similar form of supervised release; or

(B) the person had not been convicted of, charged with, or arrested for a crime of violence, a felony offense, or a violation of a Gang Injunction.

(6) Determination Regarding Removal

Should, as a result of the Periodic Review, the Mayor reasonably conclude that a person should be removed from the injunction's enforcement list, the person shall be removed from the list.

(7) If the Mayor concludes that the person should not be removed from the list, the person may appeal to the issuing court for removal as provided in subsection (k).

Sec. 102 Correctional facilities

(a) Arrest power 1

Correctional officers of the District of Columbia Department of Corrections with the 2
uniform rank of Major and above, shall have the power of arrest within a correctional facility 3
within the District of Columbia. 4

(b) Prohibition of cellular telephone or other portable communication device 5

Chapter 572 of _____, effective December 15, 1941 (55 Stat. 800; D.C. Official 6
Code § 22-2603 is amended to read as follows: 7

“(a) It shall be unlawful for any person, not authorized by law, the Mayor of the District of 8
Columbia, or the Director of the Department of Corrections of the District of Columbia, to 9
introduce or attempt to introduce into or upon the grounds of any penal institution of the District 10
of Columbia, whether located within the District of Columbia or elsewhere, any of the following 11
articles which are hereby declared to be minor contraband for the purposes of this section, to wit: 12

“(1) any written or recorded communication or any currency or coin given or 13
transmitted, or intended to be given or transmitted, to any inmate; 14

“(2) any article of food or clothing given or transmitted, or intended to be given or 15
transmitted, to any inmate; or 16

“(3) any cellular telephone or other portable communication device. As used in 17
this subparagraph, the term "portable communication device" means any device carried, worn, or 18
stored which is designed or intended to receive or transmit verbal or written messages, access or 19
store data, or connect electronically to the Internet or any other electronic device and which allows 20
communications in any form. Such devices include, but are not limited to, portable two-way 21
pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants 22

or PDA's, laptop computers, or any components of these devices which are intended to be used to assemble such devices. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities which has been approved or issued by the Department for investigative or institutional security purposes or for conducting other state business.

“(b) Any person convicted of a violation of subsection (a) shall be guilty of a misdemeanor and shall be punished by imprisonment up to 180 days, a fine of \$1,000, or both.

“(c) It shall be unlawful for any person, not authorized by law, the Mayor of the District of Columbia, or the Director of the Department of Corrections of the District of Columbia, to introduce or attempt to introduce into or upon the grounds of any penal institution of the District of Columbia, whether located within the District of Columbia or elsewhere, any of the following articles which are hereby declared to be major contraband for the purposes of this section:

“(1) any intoxicating beverage or beverage which causes or may cause an intoxicating effect;

“(2) any controlled substance or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect; or

“(3) any firearm, knife, or other dangerous weapon as defined in D.C. Official Code 22 § 4514.

“(d) Any person convicted of a violation of subsection (c) shall be guilty of a felony, and, shall be punished by imprisonment for not less than 2 years and not more than 10 years.

Sec. 103. Spousal privilege

Sections 1068 and 1069 of the Act codifying the District of Columbia Code, 56th

Congress, Session II, Chapter 854, Subchapter 25 (1901), approved December 23, 1963, 77 Stat. 1

519, (D.C. Official Code § 14-306), are amended as follows: 2

(a) Subsection (c) is renumbered subsection (e). 3

(b) Insert new subsections (c) and (d) are added to read as follows: 4

“(c) Notwithstanding subsections (a) and (b), a spouse or domestic partner is both 5

competent and compellable to testify against his or her spouse or domestic partner as to both 6

confidential communications made by one to the other during the marriage or domestic 7

partnership and any other matter in: 8

“(1) A criminal or delinquency proceeding where one spouse or domestic partner is 9

suspected of or charged with: 10

“(A) an intrafamily offense as defined in D.C. Official Code § 16-1001(5); 11

“(B) an offense against a child, minor, or vulnerable adult who resides 12

temporarily or permanently in the household of one of the spouses or domestic partners, or who is 13

related by blood, marriage, domestic partnership or adoption to one of the spouses or domestic 14

partners, or whose health, welfare, or supervision is entrusted to one of the spouses or domestic 15

partners at the time of the alleged offense; or 16

“(C) the violation of a temporary protection Gang Injunction, a civil 17

protection Gang Injunction, a stay away Gang Injunction or a no contact Gang Injunction; 18

“(2) a civil proceeding involving the abuse, neglect, abandonment, custody, or 19

dependency of a child, minor or vulnerable adult, who is in the custody of or resides temporarily 20

or permanently in the household of one of the spouses or domestic partners, or who is related by 21

blood, marriage, domestic partnership or adoption to one of the spouses or domestic partners, or 22

whose health, welfare, or supervision is entrusted to one of the spouses or domestic partners at the
time of the alleged offense;

“(3) a criminal or delinquency proceeding where one spouse or domestic partner is
suspected of or charged with committing a crime jointly with the other spouse or domestic
partner; or

“(4) a criminal or delinquency proceeding where the crime occurred prior to the
marriage of the spouses or prior to the filing of a domestic partnership agreement, and one spouse
or domestic partner is suspected of or charged with committing the crime.

“(d) The burden is upon the person asserting a privilege to establish that the privilege
exists.”.

(b) Section 1 of an Act to enact Part II of the District of Columbia Code, entitled
“Judiciary and Judicial Procedures,” effective December 23, 1963 (79 Stat. 519; D.C. Official
Code 14-307), is amended as follows:

(1) D.C. Official Code § 14-307(b)(1) is amended by striking the phrase “evidence
in criminal cases where the accused is charged with causing the death of, or inflicting injuries
upon, a human being,” and inserting the phrase, “evidence in a grand jury, criminal, delinquency,
family or domestic violence proceeding where a person is suspected of or charged with causing
the death of or injuring a human being, or with attempting or threatening to kill or injure a human
being, or with a violation of D.C. Official Code §§ 50-2201.05, 50-2201.05b, or 50-2203.01, or a
report has been filed with the police pursuant to D.C. Official Code § 7-2601.”.

(2) (D.C. Official Code § 14-307(b)(4)) is amended as follows:

(A) by striking the phrase “in criminal or civil cases” and inserting “in a

grand jury, criminal, delinquency or civil proceeding”; and 1

(B) by striking the phrase “approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 2
§ 1396 et seq.)” and inserting in its place “approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 3
1396 et seq.), or where a person is suspected of or charged with having defrauded a health care 4
benefit program. For purposes of this section, “health care benefit program” means any public or 5
private plan or contract under which a medical benefit, item, or service is or may be provided to 6
an individual, and includes an individual or entity who provides a medical benefit, item, or service 7
for which payment may be made under the plan or contract.”. 8

(3) by adding a new subsection (c) to read as follows: 9

“(c) For purposes of this section, “injury” includes, in addition to physical damage to the 10
body, a sexual act or sexual contact prohibited by the Anti-Sexual Abuse Act of 1994, as amended 11
(D.C. Official Code Title 22, Chapter 30).” 12

Sec. 104. Destruction or defacing campaign material 13

The District of Columbia Election Code of 1955, approved August 12, 1955 (89 Stat. 699; 14
D.C. Official Code § 1-1001.01 *et. seq.*) is amended as follows: 15

(a) Insert a new subsection “(c) to read as follows” 16

“(c)(1) Any person who, during the period beginning 30 days before any election or 17
initiative, referendum or recall, intentionally removes, defaces, damages, or destroys any lawfully 18
placed billboard, poster, sign, or other material relating to any candidate for election for any office 19
or relating to any issue that is to be submitted to the electors is guilty of a misdemeanor and shall 20
be punished by a fine of not more than \$1,000. 21

(2) In determining the amount of the fine for a violation of this subsection, the 22

court shall consider the frequency, nature and extent of the proposed conduct. 1

“(3) This subsection shall not apply to the owner of such material, the owner of the 2
premises where the material is located, persons authorized and acting on the owner’s behalf, or 3
any person charged with enforcement of any law of the District of Columbia acting within the 4
scope of their authority.” 5

(b) Redesignate subsection “(c)” as subsection “(d)”. 6

Sec. 105. Interspousal immunity 7

Section § 16-1002(c) of Chapter 10 of title 16 of the D.C. Official Code is amended to 8
read as follows: 9

“(c) The institution of criminal charges by the United States attorney shall be in addition 10
to, and shall not affect the rights of the complainant to seek any other relief under this subchapter. 11
Testimony of the respondent in any civil proceedings under this subchapter and the fruits of that 12
testimony shall be inadmissible as evidence in the government’s case in chief in a subsequent 13
criminal trial, but such testimony may be used derivatively, to impeach the respondent witness, or 14
in a prosecution of respondent for perjury or making false statements in a criminal trial except in a 15
prosecution for perjury or false statement.” 16

Sec. 106. Disorderly Conduct 17

(a) Section 211a of Chapter 159 _____ approved June 29, 1953, 18
(67 Stat. 98; D.C. Official Code 22-1321) is amended to read as follows: 19

“(a) Definitions 20

“(1) “Alarm” means the reasonable fear of bodily harm resulting from the 21
awareness of being endangered. 22

“(2) “Breach of the peace” means public alarm or public violence. 1

“(3) “Public” means affecting or likely to affect persons in a place to which 2
the public has access; including but not limited to highways, streets, sidewalks, transportation 3
facilities, schools, places of business or amusement. 4

“(b) A person commits the crime of Disorderly Conduct by intentionally or 5
recklessly: 6

 “(1) threatening or harming another’s person or property in such a manner 7
that is likely to cause an immediate breach of the peace; 8

 “(2) obstructing or hindering the free passage of another in a public place or 9
a public conveyance and refusing to move when so instructed by a police officer; or 10

 “(3) unreasonably hindering the lawful use or peaceful enjoyment of a 11
public facility by another person. 12

“(c) A person who violates this act shall upon conviction be fined not more than 13
\$500 and imprisoned not more than 6 months, or both.” 14

(b) Section 6 of chapter 320 of _____, approved July 29, 1892, (27 Stat. 323; 15
D.C. Official Code §22-1307) is repealed. 16

Sec. 107. Penalties for chronic offenders 17

(a) Section 115 of the District of Columbia Theft and White Collar Crimes Act of 1982 18
(D.C. Law 4-164; D.C. Official Code § 22-3215), is amended by adding a new subsection (e) to 19
read as follows: 20

 “(e) Any person convicted of 3 or more separate violations of subsection (b) or (c), 21
or an equivalent conviction by a court of any state, or the United States, or its territories, shall be 22

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fined not less than \$5000 or imprisoned for not less than 8 years, or both.”. 1

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(b) Section 907a of the District of Columbia Court Reform and Criminal Procedure Act of 2
1970 (84 Stat. 599; D.C. Official Code § 22-1804a) is amended as follows: 3

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(1) By striking the phrase “the court may” throughout subsection (a) and replacing 4
it with the phrase “the court shall”. 5

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(2) By adding a new subsection (e) to read as follows: 6

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“(e) If a person is convicted in the District of Columbia of a crime of violence as 7
defined by § 22-4501, having previously been convicted of 2 or more prior crimes of violence not 8
committed on the same occasion, the fine and imprisonment for the third conviction shall be not 9
less than twice the existing maximum penalty.”. 10

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(3) By adding a new section (f) to read as follows: 11

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“(f) If a person is convicted in the District of Columbia of misdemeanor 12
prostitution, theft, or burglary, having previously been convicted of two misdemeanors for 13
prostitution, theft, or burglary committed on different occasions, the person shall upon a third and 14
subsequent convictions be guilty of a felony and shall be fined up to \$10,000 and imprisoned up 15
to 5 years, or both. 16

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Sec. 108. Prostitution penalty 17

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Section 1 of An Act For the suppression of prostitution in the District of Columbia, 18
approved August 15, 1935 (49 Stat. 651, D.C. Official Code § 22-2701), is amended as follows: 19

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(a) Strike the phrase “135 days” and insert “180 days” in its place. 20

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(b) Strike the phrase “a fine of \$1,000 or not more than 180 days imprisonment” and insert 21
“a fine of \$4,000 or not more than 2 years imprisonment” in its place. 22

Sec. 109. Prostitution free zones 1

Section 104(b)(1) of the Omnibus Public Safety Amendment of 2006, effective April 24, 2007 (D.C. Law 16-306; D.C. Official Code §22-2731(b)(1)) is amended by deleting “240 consecutive hours” and inserting “480 consecutive hours” in its place. 2 3 4

Sec.110 Theft from a Motor Vehicle. 5

The District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3201 *et seq.*), is amended as follows: 6 7 8

(a) The table of contents is amended by adding the following after the phrase “Sec. 127. Identity Theft..”: 9 10

“Subtitle 4C. Theft from a Motor Vehicle” 11

(b) A new subtitle 4C is added to read as follows: 12

“Sec. 128. Theft from a motor vehicle. 13

“Sec. 128a. Theft from a motor vehicle. 14

“A person commits the offense of theft from a motor vehicle if that person wrongfully obtains or uses the property of another from a motor vehicle with intent: 15 16

“(1) To deprive the other of a right to the property or a benefit of the property; or 17

“(2) To appropriate the property to his or her own use or to the use of a third 18

person. 19

“Sec. 128b. Penalties for theft from motor vehicle. 20

“(a) *Theft from motor vehicle in the first degree* -- Any person convicted of theft from 21

motor vehicle shall be fined not more than (1) \$5,000, or imprisoned for not more than 10 years, 22

or both, if the property obtained is \$250 or more. 1

“(b) *Theft from motor vehicle in the second degree* -- Any person convicted of theft from 2
motor vehicle shall be fined not more than \$1,000 or imprisoned for not more than 180 days, or 3
both, if the value of the property obtained, is less than \$250. 4

“(c) Upon the third conviction of a violation of subsections (a), (b) or both, a person shall 5
be sentenced to imprisonment for not more than 15 years and shall be sentenced to imprisonment 6
for a mandatory minimum term of not less than three years and shall not be released from prison 7
or granted probation or suspension of sentence prior to serving the mandatory minimum.”. 8

Sec. 111. Unlawful entry 9

Section 824 of An Act To establish a code of law for the District of Columbia, 10
approved March 3, 1901 (31 Stat. 1324; D.C. Official Code § 22-3302), is amended by designing 11
the current language as subsection (a) and inserting a new subsection (b) to read as follows: 12

“(b) Any person who, without lawful authority, shall enter, or attempt to enter any motor 13
vehicle against the will of the lawful owner or of the person lawfully in charge thereof, or being 14
therein or thereon shall be deemed guilty of the misdemeanor set forth in subsection (a). 15

Sec. 112. Vagrancy repeal 16

Section 1 of an Act to define and punish vagrancy in the District of Columbia, and for 17
other purposes, approved December 17, 1941 (55 Stat. 809; D.C. Official Code § 22-3301 *et. Seq*) 18
is repealed. 19

Sec. 113. Homelessness as a protected class for bias related crimes 20

Paragraph (1) of Section 2 of the Bias-Related Crime Act of 1989, effective May 8, 1990 21
(D.C. Law 8-121; D.C. Official Code § 22-3701), is amended by inserting after the phrase “family 22

responsibility”the phrase “homelessness” 1

Sec. 114. Massage establishments 2

Title 47-2811 of the District of Columbia Official Code is amended to read as follows: 3

“(a) Owners or managers of massage establishments and Turkish, Russian, or medicated 4
baths shall pay a license fee of \$ 300 per annum. No license shall be issued under this section 5
without the approval of the Chief of Police. No person may give a massage under this section 6
without being licensed pursuant to D.C. Law 6-99, the District of Columbia Health Occupations 7
Revision Act of 1985. Any person violating the provisions of this section shall, upon conviction, 8
be punished as hereinafter provided in this chapter; and, in addition to such penalty, it shall be the 9
duty of the Mayor of the District of Columbia to revoke the license of the owner or manager of the 10
establishment wherein the provisions of this section shall have been violated. 11

Sec. 115. Drug free zones 12

Section 3(a) of the Anti-Loitering/Drug Free Zone Act of 1996, effective June 13
3, 1997 (D.C. Law 11-270; D.C. Official Code § 48-1002(a)), is amended by striking the phrase 14
“240 consecutive hours” and inserting the phrase “480 consecutive hours” in its place. 15

TITLE II 16

“Appointment of the Chief Medical Examiner” 17

Sec, 201. Section 2903(c)(3) of the Establishment of the Office of the Chief Medical 18
Examiner Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 5- 19
1402(c)(3)), is amended to read as follows: 20

“(3) The certification requirement of paragraph (2) of this subsection may be 1
waived by the Mayor for the CME appointed to fill the term beginning on May 1, 2007 and ending 2
on April 30, 2013.”. 3

TITLE III 4

"GPS Anti-Tampering Act of 2009". 5

Sec. 301. (a) It shall be unlawful for a person who is required to wear a device as a 6
condition of supervision pursuant to a protection Gang Injunction, pretrial, presentence or 7
predisposition release, probation, supervised release, parole or commitment to remove or 8
intentionally alter the device, or to intentionally interfere with or mask or attempt to interfere with 9
or mask the operation of the device, or to allow any unauthorized person to remove or 10
intentionally alter the device, or to intentionally interfere with or mask or attempt to interfere with 11
or mask the operation of the device. For purposes of this section, the term "device" includes, but is 12
not limited to, a bracelet, anklet, or other equipment equipped with electronic monitoring 13
capability and/or global positioning system technology. 14

(b) Whoever violates this section shall be fined not more than \$1,000, or imprisoned for 15
not more than 180 days, or both. 16

Sec. 302. Section 23-581 of the District of Columbia Official Code is amended creating a 17
new subsection (a-4) to read as follows: 18

“(a-4) A law enforcement officer may arrest a person without a warrant if the officer has 19
probable cause to believe the person has committed an offense as provided in the GPS Anti- 20
Tampering Act of 2009. 21

TITLE IV 22

Sec. 401. Disclosures required for criminal justice purposes.	1
Title III of the District of Columbia Mental Health Information Act of 1978, effective	2
March 3, 1979, (D.C. Law 2-136; D.C. Official Code 7-1203) is amended by adding a new section	3
302A to read as follows:	4
“Disclosures required for criminal justice purposes.	5
“(a) Mental Health information shall be disclosed between and among mental health	6
professionals, mental health facilities, pretrial and post-conviction supervision agencies,	7
correctional facilities, criminal courts, paroling authorities, prosecutors, and defense counsel when	8
and to the extent necessary for the limited purposes of:	9
“(1) Ensuring the delivery of shorter seamless treatment services to persons	10
recovering those services in connection with their involvement in the criminal justice system;	11
“(2) Protecting the individual mental health consumer from serious physical harm	12
while incarcerated or otherwise institutionalize; or	13
“(3)Protecting public safety through determining and reporting compliance and	14
noncompliance with conditions of pretrial, probation, parole or supervised release.”.	15
TITLE V	16
Sec. 501. Fiscal impact statement.	17
The Council adopts the attached fiscal impact statement as the fiscal impact statement	18
required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24,	19
1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).	20
Sec. 502. Effective date.	21

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