

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: June 29, 2009

SUBJECT: Fiscal Impact Statement: "Omnibus Public Safety and Justice
Amendments Act of 2009"

REFERENCE: Bill 18-151, Draft Committee Print

Conclusion

Funds are sufficient in the proposed FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation.

Background

The proposed legislation contains numerous provisions intended to increase public safety and combat crime in the District of Columbia. The proposed bill creates new statutes and amends laws relating to guns, theft, correctional facilities, youth violence, privileges, stalking, penalties, alcohol, disorderly conduct, DNA collection, and other issues.

Below is a section-by-section summary of the proposed bill.

TITLE I

101. Creates the offense of voluntarily and knowingly being in a motor vehicle that contains a firearm that is not being lawfully carried or lawfully transported, and establishes penalties for its violation.

102. Creates the new offense of unlawful entry of a motor vehicle, and establishes penalties for its violation.
103. Creates the new offense¹ of tampering with a detection device, such as a bracelet, anklet or other equipment with electronic monitoring and/or global positioning system technology, that a person has been mandated to wear. It also establishes penalties for its violation.
104. Requires the Mayor to establish a Gang and Crew Intervention Joint Working Group ("Joint Working Group") to develop a coordinated response to youth violence and expand capacity of the Critical Incident and Targeted Youth Outreach Teams.
105. Creates a new anti-stalking statute and penalties for its violation.

TITLE II

201. Establishes a misdemeanor for removing, defacing, damaging or destroying election-related material 30 days before an election or four days after.
202. Extends the deadline by two years, to September 30, 2012, for the District of Columbia Sentencing and Criminal Code Revision Commission to implement criminal code reform.
203. Provides the Mayor with the authority to waive the requirement that the Chief Medical Examiner be certified in forensic pathology by the American Board of Pathology or be eligible for such certification.
204. Extends the period an authorization for release of information regarding mental health remains in effect to 365 days and allows for the disclosure of mental health information for criminal justice purposes.
205. Requires gun offenders to register with the Metropolitan Police Department and periodically verify their information; and creates penalties for gun law offenders who fail to comply with the registration program.
206. Amends the spousal/domestic partner privilege to compel a spouse or domestic partner to testify against the spouse or partner when one commits a crime against the other, when one commits a crime against a minor, when they are adverse parties in civil proceedings, when they are accused of jointly committing a crime, and when the crime occurred before the marriage or partnership.
207. Expands exceptions to physician-patient privilege so that evidence can be used in proceedings beyond criminal (as provided in current law) to include grand jury, delinquency, domestic violence, civil fraud and specific violent crimes prosecutions.
208. Repeals a disorderly conduct statute.
209. Revises the law on disorderly conduct contained in the District of Columbia Law Enforcement Act of 1953.²
210. Establishes a mandatory minimum sentence of 15 years for the third conviction of a violent crime.
211. Establishes penalties for conspiracy by two or more persons to commit a crime of violence.
212. Revises definition of and prohibitions surrounding contraband on the grounds of any District of Columbia penal institution or secure juvenile residence facility.

¹ The Council approved this offense on an emergency and temporary basis in December 2008 and January 2008, respectively.

² Approved June 29, 1953 (67 Stat. 98; D.C. Official Code § 22-1321).

213. Increases the penalty for the second, third and subsequent offenses for engaging in or soliciting prostitution.
214. Increases the period of time the Chief of Police may declare any public area a Prostitution Free Zone from 240 to 480 consecutive hours.
215. Eliminates the affirmative defense of consent in sexual abuse offenses where consent is an allowable defense.
216. Revises identity theft and theft statutes by amending certain definitions, by creating the new charge of use of a stolen vehicle to a commit crime of violence, and by increasing current and creating new penalties. Also adds retaliatory threats (threats to injure; the current code just says "injure") to the obstruction of justice statute.
217. Repeals the vagrancy statute.
218. Adds homelessness as a protected class for purposes of the bias-related crimes law.
219. Expands the list of DNA sample offenses (crimes for which convicted defendants have to give DNA samples) from the current list of violent and serious felonies to all felonies.
220. Expands the definition of violent crime to include a crime defined as a crime of violence in other jurisdictions; broadens the scope of who is prohibited from owning or having a firearm in their possession; and creates a mandatory minimum term of imprisonment for possession of a firearm by felons previously convicted of a violent crime.
221. For a motion attacking, or striking, a sentence, allows the government to demonstrate that it has been prejudiced in its ability to respond to the motion by the delay in its filing.
222. Defines "daylight" in the warrant statute as 6 a.m. to 9 p.m. (currently it is not defined and special permission is required to serve warrants after sundown).
223. Adds malicious burning, destruction or injury of another's property and voyeurism to the list of offenses for which arrests can be made without a warrant.
224. Adds carrying a rifle or shotgun, possession of a firearm during the commission of a crime of violence or dangerous crime, and unlawful possession of a firearm to the list of offenses where there is a rebuttable presumption to detain a defendant pre-trial.
225. Revises current law on licensing requirements for any person who gives a massage in massage establishments and Turkish, Russian, or medicated baths.
226. Adds Cathinone as a Schedule I drug.
227. Amends the determination by which the Chief of Police declares a Drug Free Zone.
228. Changes the blood alcohol content level required in order to determine the level of intoxication, establishes certain criteria that would constitute *prima facie* evidence of intoxication, and revises and increases the penalties for driving under the influence.

TITLE III

301. Revises The Innocence Protection Act of 2001³ to allow that a motion for relief be dismissed if the government demonstrates that it has been materially prejudiced.
302. Repeals language, including penalties, regarding engaging in conduct with the intent to cause emotional distress to another person or placing another person in reasonable fear of death or bodily injury by willfully, maliciously, and repeatedly following or harassing that person.

³ Effective May 17, 2002 (D.C. Law 14-134; D.C. Official Code § 22-4135(f)).

303. Allows a law enforcement officer to arrest a person without a warrant if there is probable cause that the person committed an offense related to tampering with a detection device.

TITLE IV

401. Provides that a donor of semen for purposes of artificial insemination to a person who is not his spouse or partner not be considered a parent of the child conceived, unless the parent and donor agree to this in writing.
402. Requires that the self-support reserve be \$14,404 as of April 1, 2009 and all child support orders are modified to reflect this.
403. Amends the anti-sexual abuse statute to clearly define "domestic partner" and "domestic partnership;" and to provide that domestic partnership between the defendant and the victim at the time of the sexual offense, in addition to marriage, is also a defense, which the defendant must prove by a preponderance of the evidence.
404. Clarifies that District residents who are not employees of the *District* government are eligible to register as domestic partners in the District of Columbia.

Financial Plan Impact

Funds are sufficient in the proposed FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation.

District agencies, including the Metropolitan Police Department and the Office of the Attorney General, will be able to absorb the impact of implementing the provisions of the proposed bill with existing resources.