

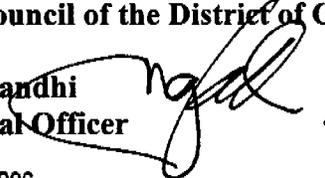
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: MAR 27 2006

SUBJECT: Fiscal Impact Statement: "Omnibus Public Safety Act of 2006"

REFERENCE: Bill 16-247 As Introduced

Conclusion

Funds are not sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the program. The proposed legislation could result in additional expenditures for the District of approximately \$297,000 in FY 2006 and a total of \$2.2 million for FY 2006 through FY 2009.

Federal and District anti-deficiency laws prohibit District officers and employees from exceeding agency appropriations in any fiscal year. 31 U.S.C.A. § 1341 (2000); D.C. Code § 47.355.01 *et seq.* (2003). The proposed legislation cannot be implemented without violating these anti-deficiency laws unless funds are identified in the existing budget and financial plan and allocated to cover the expenditures required by the proposed legislation.

The proposed legislation is an omnibus legislative vehicle for adopting 22 titles to the District's criminal code. These titles address violent crime, legislation affecting children, prostitution, interpreter services, government appeals, property, motor vehicle theft, traffic offenses, and privacy laws. The purpose and financial impact of each title is summarized below.

VIOLENT CRIME PROVISIONS

Background

The proposed titles would create new offenses, provide enhanced penalties, and modify existing offenses to allow the District to prosecute violent crime offenders with charges that accurately reflect the alleged criminal act. These proposed titles include:

- Title I. Gun Violence** (would increase penalties for unlawful gun possession and expand gun-free zones to include public housing and libraries);
- Title II. Violence Against Senior Citizens** (would expand the list of crimes for which increased penalties would apply when committed against senior citizens);
- Title IV. Assault on a Police Officer** (would create both a misdemeanor offense and a felony offense, and would create separate penalties for each);
- Title V. Armor Piercing Ammunition** (would provide enhanced penalties for possessing restricted ammunition);
- Title VI. Enhanced Assault** (would provide increased penalties for assault resulting in bodily injury);
- Title VII. Crime of Violence Amendments** (would expand the list defining "crime of violence," and would make "crime of violence" as defined in D.C. Official Code § 23-4501 (enhanced penalties for committing crimes of violence while armed) the same as defined in D.C. Official Code § 23-1331 (pretrial detention); and
- Title VIII. Intrafamily Violence** (would expand the definition of intrafamily violence, would provide for the protection of stalking victims, and would make it unlawful to disable a telephone or other device that prevents the victim from summoning help).

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required.

The proposed changes to the criminal code would expand the list of crimes of violence for which the District may seek enhanced penalties, and also would allow the District to prosecute violent crime offenders with charges that more accurately reflect the alleged criminal act. For certain crimes involving unlawful gun possession or unlawful possession of restricted ammunition, the proposed legislation would provide for mandatory minimum sentences. The proposed legislation would provide prosecutors additional charges with which to prosecute violent crime offenses, but would not require additional staffing or resources.

Titles I (Gun Violence) and V (Armor Piercing Ammunition) would provide for mandatory minimum sentencing for certain violations. These sentences are all greater than one year, and would therefore be served at the Federal Bureau of Prisons ("BOP"). There may be some impact to the D.C. Department of Corrections ("DOC"), as prisoners are held at DOC before they are transferred to BOP. However, this impact would depend on a variety of factors, including levels of enforcement and judicial backlogs, and cannot be estimated at this time.

The proposed titles would provide for misdemeanor charges that more accurately reflect the alleged criminal act. These are crimes that are currently brought under other existing code sections (e.g., the misdemeanor charge of assaulting a police officer proposed in Title IV is currently charged as a simple assault). Since the penalties for these misdemeanor charges are substantially the same as the misdemeanor charges under which they would otherwise be brought, these proposed provisions would have no impact on the District's budget and financial plan.

LEGISLATION AFFECTING CHILDREN

Background

The proposed titles would create new offenses or modify existing offenses to provide for legislation intended to enhance protection of children, deter crime committed against children, and provide for increased penalties for those convicted of crimes committed against children. These proposed titles include:

- Title IX. Anti-Gang Recruitment, Membership, and Retention** (would make it unlawful to engage in criminal activity as part of a gang, or to recruit others to do so);
- Title X. Sexual Abuse** (would define a minor as one under 18 years of age, or attending high school and under 19 years of age, create offenses and associated penalties for various degrees of sexual abuse of a minor, and further define who is subject to the Sexual Abuse of a Ward offenses);
- Title XI. Mandatory Reporting of Child Abuse or Neglect** (would expand the list of individuals required to report child abuse or neglect, and would expand reporting requirement to include instances of being told of abuse or neglect by a child or witness, regardless of whether or not the person believes that child or witness);
- Title XII. Mandatory Reporting of Crimes Against Children** (would establish requirements and procedures for the reporting of juvenile criminal victimization, and provide for increased penalties for failure to report);
- Title XIII. Enhanced Penalties for Crimes Committed Against Children** (would provide increased penalties for crimes of violence committed by an adult against a minor);
- Title XIV. Contributing to the Delinquency of a Minor** (would criminalize actions by adults that encourage or cause minors to engage in criminal activity); and
- Title XVI. Child's Willful Failure to Appear for Hearing** (would create an offense for a juvenile's failure to appear for a hearing).

Financial Plan Impact

Funds are not sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the program. The proposed legislation could result in \$ 2.2 million in additional expenditures for the District in FY 2006 through FY 2009.

The Department of Youth Rehabilitation Services ("DYRS") could incur up to \$297,000 in unbudgeted expenditures in FY 2006 to implement the proposed legislation. These costs are the result of increased detention costs related to Title XVI, Willful Failure to Appear. It is difficult to predict both the actual number of youths who would be detained under the proposed legislation, and the length of time such youths would be detained. The Amendment's actual fiscal impact on the District's budget and financial plan will reflect the number of youth who fail to appear for a hearing and the extent to which judges invoke the proposed provisions, and thus, may vary from these estimates. The projection of unbudgeted expenditures represents an estimate of the District's maximum financial exposure, and is based on an average cost of \$1,300 per detained youth, and \$4,500 per committed youth.¹ These costs assume 3.5 percent inflation in each year beginning in FY 2007, and are detailed in Table 2 below.

Table 1.

Estimated Impact to the Financial Plan (\$ in 000s)					
	FY 2006 ²	FY2007	FY2008	FY2009	4-Year Total
Total	\$ 297	\$ 615	\$ 636	\$ 659	\$ 2,207

PROSTITUTION-RELATED PROVISIONS

Background

The proposed titles would make prostitution in the District of Columbia illegal, would modernize the District's current prostitution laws, and allow the Chief of Police to designate 'Prostitution-free Zones' for a period of up to 120 hours. These proposed titles include:

Title XX. Prostitution (would make prostitution in the District of Columbia illegal, provide for related penalties, including increased penalties for causing a minor to engage in prostitution, and make modernization amendments to the District's current prostitution laws); and

Title XXI. Prostitution Free Zones (would allow the Chief of Police to designate a "Prostitution Free Zone" for a period of up to 120 hours, and criminalize failure to comply with this order).

¹ This estimate assumes 18 additional detention admissions, and 8 additional committed detentions per year. Detained youths (those placed in the District's care while awaiting trial or disposition) have an average length of stay of 26 days; committed youths (those who have been court-ordered into the care of DYRS as a ward of the District) have an average length of stay of 90 days. The average cost per day for a youth detention is \$500.

² Costs for 6 months of FY 2006.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. Appropriated funds and staff are provided to the District's law enforcement agencies for these purposes.

TITLE III. THE INTERPRETER ACT

Background

The proposed titles would not include as a 'communication-impaired person' those who can communicate to another person in writing, by sign language when that other person also signs, or in another language when that other person speaks the same language fluently. The proposed title would also expand the definition of 'qualified interpreter' to include persons listed by the U.S. State Department, the Superior Court, or the Metropolitan Police Department as being skilled in the language.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. This proposed title would eliminate the need to have an interpreter during custodial interrogations when both officer and suspect speak fluently the same language. The proposed title also would include as a 'qualified interpreter' those persons listed by the U.S. State Department and Metropolitan Police Department as being skilled in the language. Neither provision would require additional staff or resources in order to be implemented.

TITLE XV. GOVERNMENT APPEALS

Background

The proposed titles would allow the U.S. Attorney's Office or the Office of the Attorney General to appeal a trial court order granting a new trial after a verdict or judgment as to one or more counts. The proposed title would also allow the U.S. Attorney's Office or the Office of the Attorney General to appeal a trial court order affecting release orders.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. Appropriated funds and staff are provided to the Office of Attorney General for these purposes.

TITLE XVII. UNLAWFUL ENTRY ON VACANT PROPERTY

Background

The proposed title would create a rebuttable presumption that a person found on vacant and secured property has entered such property against the will of the owner.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. The proposed title would make the presence of a person in any building or property that is vacant and secured prima facie evidence that the person has entered the property against the will of the owner. This title provides an additional means to the District to enforce current law, but would not require additional staff or resources to implement.

TITLE XVIII. MOTOR VEHICLE THEFT

Background

The proposed title would make it unlawful to remove or alter motor vehicle identification numbers. It would also establish both misdemeanor and felony penalties based on the value of the motor vehicle or part.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. The proposed title would make it unlawful to tamper with any motor vehicle identification number. The proposed title would make this crime a misdemeanor offense if the value of the motor vehicle or part is less than \$250, and a felony offense if the value of the motor vehicle or part is greater than \$250.

This proposed title provides additional means to the District to prosecute motor vehicle theft, but would not require additional staff or resources to implement. Most convictions brought under this proposed title are expected to be felony convictions with sentences to be served at BOP. While DOC may incur costs as a result of holding prisoners before they are transferred to BOP, the extent of any fiscal impact would depend on a variety of factors, including levels of enforcement and judicial backlogs, and cannot be estimated at this time.

TITLE XIX. DRIVER'S LICENSE REVOCATION AND DISQUALIFICATION

Background

The proposed title would add to the list of violations for which the District could revoke a driver's permit, or for which a person could be disqualified from receiving a driver's permit. The proposed title would also establish increasing penalties for repeat offenders.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. The proposed title would allow the Mayor to revoke, absent compelling circumstances warranting an exception, a driver's permit of a person convicted or adjudicated delinquent of a drug offense, a stolen vehicle offense, failure to yield to a pedestrian, failure to obey a traffic order, or fleeing police. The proposed title would also allow the Mayor to delay issuance of a driver's permit for an individual convicted or adjudicated delinquent of these offenses and others, including reckless driving, driving under the influence, operating without a permit or suspended permit, and speeding 30 miles per hour in excess of the limit. While these titles expand the list of convictions or adjudications for which one can lose their driver's permit, it is not expected to require additional staff or resources to implement. Appropriated funds and staff are provided to the Department of Motor Vehicles for these purposes.

TITLE XXII. VOYEURISM

Background

The proposed title would criminalize the secret recording of certain private acts, and provide for increasing penalties based on the egregiousness of the act.

Financial Plan Impact

Funds are sufficient in the FY 2006 through FY 2009 budget and financial plan to implement the proposed titles because no additional staff or resources will be required. The proposed title would criminalize surreptitiously observing or recording persons engaged in activities for which there is a reasonable expectation of privacy, with exemptions created for law enforcement and security monitoring. The proposed legislation would create both misdemeanor and felony offenses, distinguished in part on whether the recording was distributed to the public. This title provides the District means to enforce privacy laws, but would not require additional staff or resources to implement. Appropriated funds and staff are provided to the respective agencies and departments for these purposes.