

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Philip H. Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: October 1, 2012

SUBJECT: Fiscal Impact Statement – “Criminal Fine Proportionality Amendment Act of 2012”

REFERENCE: Bill 19-214, Draft Committee Print Shared with the Office of Revenue Analysis on August 9, 2012

Conclusion

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill.

Background

The District of Columbia Sentencing and Criminal Code Revision Commission (SCCRC) was established in 2006¹ to implement and monitor voluntary sentencing guidelines, promote fair sentencing policies, and analyze and propose reforms for the criminal code. In 2004, SCCRC’s predecessor proposed its first round of changes, which made criminal offense prison terms proportionate to the severity of the offense.

The bill implements the most recent recommendation from SCCRC, which realigns the fines associated with most criminal offenses to be proportional to jail terms associated with the offenses and codifies them in a single location. The bill is comprised of three parts. Title I outlines the new fine structure for criminal offenses, and Titles II and III offer conforming amendments for offenses with and without current fines. The chart below outlines the fine structure proposed in Title I of the bill.

¹ The SCCRC is an extension of the DC Sentencing Commission (established 2004) which was an extension of the DC Advisory Commission on Sentencing (established 1998).

Maximum Imprisonment Under Statute	Fine Established by Bill 19-214
10 days or less	\$100
30 days (1 month) or less, but more than 10 days	\$250
90 days (3 months) or less, but more than 30 days	\$500
180 days (6 months) or less, but more than 90 days	\$1,000
1 year or less, but more than 6 months	\$2,500
5 years or less, but more than 1 year	\$12,500
10 years or less, but more than 5 years	\$25,000
15 years or less, but more than 10 years	\$37,500
20 years or less, but more than 15 years	\$50,000
30 years or less, but more than 20 years	\$75,000
More than 30 years	\$125,000
Offenses that result in death	\$250,000

If the crime² is committed by an organization, as opposed to an individual, the bill allows for the organization to be fined twice the amount in the law that establishes the offense, twice the amount set forth in this bill, or twice the amount set forth in any future laws.

The bill creates a number of other exemptions or modifications. These include:

- Allowing for certain offenses to maintain fines tied actual gain or losses while reducing the fine from three times to two times the actual gain or loss³
- Allowing for certain offenses to maintain large fines relative to prison terms⁴
- Allowing for certain offenses to maintain progressive fines⁵

Additionally, any future laws can exempt fine punishments from meeting the newly established fine schedule if the future law contains specific language exempting the offense from section 1001.⁶

The conforming amendments in Titles II and III make numerous changes throughout District code eliminating specific fine references and establishing references to the newly created fines for criminal offenses. Title II amends current laws which have an established fine different than those proposed in Title I of the bill. Title III amends current laws which did not have established fines to designate Title I as the fine structure associated with the offenses.

² This applies to crimes that would result in a prison term of six months or greater.

³ Offenses include fraud, identity theft, bribery, commercial counterfeiting, tax evasion, and failure to collect and pay taxes.

⁴ Offenses included filing false claims against the District, violation of employment of minors laws, violation of minimum wage laws, failure to pay wages timely, failure to obtain necessary licenses, certifications, or registrations for certain non-health related occupations, and failure to operate a properly registered motor vehicle or trailer (not otherwise exempt).

⁵ Offenses include the removal of asbestos without a license or permit; failure to register a dangerous dog; provision of alcohol to a person under 21 years of age; failure to pay required taxes, file returns, keep records or supply tax related information; provision of false or fraudulent information when complying with tax, licensing, or permitting laws; reckless driving, driving a vehicle while impaired; driving a commercial vehicle while under the influence of drugs or alcohol; operating a watercraft while impaired and doing so with a minor on board; manufacturing, distributing, or wholesaling drugs without a license.

⁶ Section 1001 of bill 19-214.

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FIS: Bill 19-214, "Criminal Fine Proportionality Amendment Act of 2012" Draft Committee Print Shared with the Office of Revenue Analysis on August 9, 2012

Financial Plan Impact

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill. Criminal fines are not District of Columbia revenues, so there is no impact on the District's budget and financial plan. However, fines are approximately ten percent⁷ of the resources for the DC Courts Crime Victims Compensation Program⁸ (Program). The Program averaged annual pay outs of over \$8.8 million on nearly 2,900 claims from 2006 through 2010. The bill increases many fines, keeps some the same, and reduces others. These changes will impact the Program's resources, but the magnitude cannot be determined.⁹

⁷ According to a conversation with DC Courts.

⁸ The Program, which receives a majority of its funding from filing and bar application fees, supports victims of crimes who expend personal resources as a result of the criminal activity (examples include housing, medical bills, funerals, and lost wages).

⁹ A detailed review of 75 of the proposed fine changes in Title II reflected 45 resulted in an average increase of \$13,782, seven resulted in an average decrease of \$49,643, and 23 maintained the existing maximum fine. Additionally, Title III of the bill proposes conforming amendments for offenses which previously had no associated fines, but are now subject to fines under section 1001 of the bill. This review did not consider the frequency with which certain fines are imposed.