

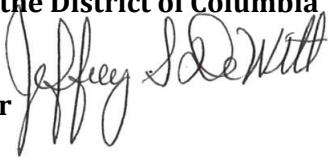
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 28, 2018

SUBJECT: Fiscal Impact Statement – Omnibus Public Safety and Justice
Amendment Act 2018

REFERENCE: Bill 22-255, Draft Committee Print as shared with the Office of Revenue
Analysis on November 27, 2018

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

This omnibus bill makes a number of changes – some technical and conforming while others are substantive – to public safety agencies’ administration and operations, including the Office of the Attorney General (OAG), the Fire and Emergency Medical Services Administration (FEMS), the Corrections Information Council (CIC), the Advisory Commission on Sentencing, the Office of Victim Services and Justice Grants (OVSJG), the Child and Family Services Administration (CFSA), the Metropolitan Police Department (MPD), the Department of Health (DOH), the Domestic Violence Fatality Review Board, and the Department of Corrections (DOC).

The bill authorizes OAG to issue crime reduction and violence prevention grants up to \$360,000¹ and allows OAG to use Litigation Support Fund resources to pay personnel and non-personnel costs associated with this grant-making authority.

The bill establishes the approval process for Mayoral appointees to CIC and the Advisory Commission on Sentencing at a ninety-day Council approval with deemed disapproval if no action is

¹ OAG currently has this authority under temporary legislation (Attorney General Limited Grant-Making Authority Temporary Act of 2018, effective September 1, 2018 (D.C. Law 22-160; 65 DCR 9893)).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

taken. The bill also extends the approval timeline for Mayoral appointees to the Board of Ethics and Government Accountability from forty-five days to ninety days.

The bill requires an agency to maintain its written and electronic records for five years for any meeting or gathering subject to the District's Open Meetings Act.²

In fiscal year 2018, the Council approved an Address Confidentiality Program (Program) administered by OVSJG. The Program allows a victim of domestic violence, stalking, human trafficking, or sexual offenses to request a substitute mailing address where OVSJG receives first class, certified, and registered mail and forwards it to a participant's actual address. Participants can use the substitute address with District government agencies and have that address appear on public records, except for filings and documents related to the Office of Tax and Revenue (OTR).

The bill reaffirms OTR's exemption from the Program by requiring that any document filed with OTR must include the participant's actual address. The bill further provides that OTR cannot index assessment, tax, or other recorded information by a participant's name in any online database, unless those documents are related to a court order, judgment, lien, or debt collection. The bill also authorizes OTR to publish the name of any participant in any notice published by OTR related to the collection of debt. OTR does not need to redact a participant's name or address in recorded documents, but it is still prohibited from disclosing the information unless permitted by OVSJG.

The bill expands the definition of child abuse and a neglected child to include sex trafficking or severe forms of trafficking in persons,³ child sex trafficking,⁴ and commercial sex acts.⁵ The bill also ensures that CFSA can provide services, if it chooses, to all abused or neglected children regardless of who perpetrated the abuse.

The Loan Repayment Assistance Program (LRAP) is a loan repayment program offered by the DC Bar Foundation that helps lawyers who work at non-profit organizations providing legal services to low-income District residents to repay their law school loans. LRAP has a public and private repayment program, with OVSJG providing the resources to the DC Bar Foundation for the public program. The bill amends the income requirements for a lawyer to participate in LRAP from an adjusted gross income less than \$75,000 to a salary, including bonus and other wages, of less than \$90,000. The bill also clarifies that when a lawyer becomes ineligible to participate in LRAP, her or his LRAP loan will be forgiven through the date of ineligibility.

In 2013, the District passed a presumptive disability law⁶ to designate that the cancer, hypertension, heart disease, respiratory disease, and infectious diseases contracted by a sworn member or employee of FEMS are presumed to be a performance of duty illness, disability, or

² Open Meetings Amendment Act of 2018, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-578).

³ Trafficking Victims Protection Act of 2000, Approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A)).

⁴ Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1834).

⁵ D.C. Official Code § 22-1831(4)).

⁶ Fire and Emergency Medical Services Employee Presumptive Disability Amendment Act of 2012, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code § 5-651 et seq.).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

death. These members and employees must seek treatment for these presumed disabilities through the District's Police and Fire Clinic.

The bill amends the presumptive disability law to appropriately reference the District's Merit Personnel Act⁷ when discussing the potential illnesses and disabilities for Emergency and Medical Services (EMS) employees. The current law erroneously references the District's Workers' Compensation Act⁸ that governs private sector employers.

The bill allows any application for a medical marijuana cultivation center that applied on July 19, 2015 to modify its proposed location without negatively affecting the application's status.

The bill makes conforming changes to the prerequisites for the publication of service of process to align with changes recently approved by Council in 2017.⁹ District law allows the publication of service when a defendant cannot be found because she or he is a nonresident, has been absent from the District for at least six months, or diligent efforts have failed to locate her or him.

The bill makes a few technical changes to the Domestic Violence Fatality Review Board including making the Board's representative from the Addiction Prevention and Recovery Administration, a subordinate office within the Department of Behavioral Health (DBH), more broadly a representative from DBH.

The bill clarifies that a dispositional order for any non-delinquent child in need of supervision will terminate when the child turns 18 years of age or, if the child is already 18 years of age, immediately.

The bill reaffirms that individuals sentenced under the court's sentencing alternatives authority for youth offenders¹⁰ are eligible to receive good time credits.

If an individual committed certain crimes before her or his eighteenth birthday, the Court can modify the sentence if the individual has served at least twenty years and the court determines that she or he is no longer a danger to society.¹¹ The bill reduces the incarceration time to fifteen years and requires any defendant brought back for a sentence modification hearing to be held at the Correctional Treatment Facility. The bill also allows the court to move directly to a sentencing hearing in cases where the sentence modification application is granted where now it is required to wait until it issues a written decision. If a sentence is reduced, the bill authorizes the courts to issue a sentence less than a minimum term otherwise required and prohibits the imposition of a sentence of life imprisonment without the possibility of parole. The bill also reduces the amount of time a defendant has to wait after a denied application from five years to three years.

⁷ District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 et seq.).

⁸ District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 et seq.).

⁹ Comprehensive Youth Justice Amendment Act of 2016, effective April 4, 2017 (D.C. Law 21-568; D.C. Official Code § 13-336).

¹⁰ Youth Rehabilitation Amendment Act of 1985, effective December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903).

¹¹ An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, effective April 4, 2017 (D.C. Law 21-238; D.C. Official Code § 24-403.03).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

The bill amends the definition of an All-Terrain Vehicle (ATV) to remove a requirement that the vehicle have low-pressure tires to be considered an ATV.¹² District law bans individuals from operating, parking, stopping, or standing ATVs on public property and in public space.¹³

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

The bill authorizes OAG to issue grants up to \$360,000 to support crime reduction and violence prevention. OAG was allocated \$360,000 in fiscal year 2018¹⁴ for these grants and no additional funds are currently budgeted for this purpose. The bill's authorization to spend Litigation Support Fund resources on costs associated with this grant-making authority has no cost.

The bill's provisions altering the approval timelines of Mayoral appointees to the CIC, Advisory Commission on Sentencing, and the Board of Ethics and Government Accountability have no costs.

The bill requires all agencies that host meetings subject to the Open Meetings Act to maintain electronic and written records for at least five years. This provision does not have a cost.

The bill strengthens OTR's exemption from the Address Confidentiality Program to ensure the integrity of OTR's operations, especially as it relates to debt collection. This provision has no costs.

The changes to the definition of an abused or neglected child have no cost. The bill's consideration that the changes do not prevent CFSA from providing services to all abused or neglected children is permissive and will not impose any costs on the agency.

OVSJG is a pass-through agency for the funding of the LRAP. Changing the income and repayment parameters does not change the funding associated with the program and has no fiscal impact.

The bill ensures that the illnesses contracted by EMS employees are covered under the appropriate legal framework. These changes are technical in nature and this provision has no cost.

There are no costs associated with the bill's provision to allow medical marijuana cultivation center applicants to modify the proposed location in their applications. Some current applicants have expressed an interest in modifying their locations and this will allow the change without having a negative effect on the application.

The bill's changes to the publication of service of process for defendants who are nonresidents or whom the District has been unable to locate have no fiscal impact.

¹² Section 2 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)).

¹³ D.C. Official Code § 50-2201.04b.

¹⁴ Fiscal Year 2018 Revised Local Budget Emergency Adjustment Act of 2018, enacted July 2, 2018 (D.C. Act 22-394; 65 DCR 7151).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

The bill's changes to the Domestic Violence Fatality Review Board are technical and do not have a fiscal impact.

The bill ensures that a child who has attained 18 years of age can have her or his supervisory order immediately terminated and that any existing order will terminate when the child attains 18 years of age. This will reduce the District's supervision of these children from 21 years of age to 18 years of age. This termination age is currently in effect for new supervision orders. There are no costs associated with this provision.

The bill's provisions on good time credits and sentence modifications for youth offenders provide guidance to the U.S. Bureau of Prisons and the D.C. Superior Court, respectively, and impose no fiscal impact on the District.

Enforcement personnel and prosecutors need the low-pressure tire requirement removed so they can bring cases against violators using photographic or video evidence because they do not have the ATVs in their possession. There are no costs associated with this definition change.