

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



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

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

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: November 29, 2012

SUBJECT: Fiscal Impact Statement – “Criminal Code Amendments Act of 2012”

REFERENCE: Bill 19-645 – Draft Committee Print shared with the Office of Revenue Analysis on November 16, 2012

Conclusion

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

Background

The bill amends numerous components of the District’s criminal code. Below is a summary of each of the proposed changes.

Title I – Criminal Code Amendments

The first section amends various unrelated criminal provisions. They are outlined as follows:

- Adds to the criminal activity of tampering with an electronic device the failure to charge the device or maintain its battery;¹
- Expands the criminal activity of blocking passage and demonstrations to include blocking parks or reservations and demonstrating in an area where demonstration is prohibited;²
- Increases the amount of a check written fraudulently from \$100 to \$1,000 or greater that is considered a felony;³

¹ Omnibus Public Safety and Justice Amendment Act of 2009, effective December 26, 2009 (D.C. Law 18-88; D.C. Official Code § 22-1211).

² Section 6 of An act for the preservation of the public peace and the protection of property within the District of Columbia, approved July 29, 1892 (27 Stat. 322; D.C. Official Code § 22-1307).

³ An act to regulate the issuance of checks, drafts or orders for the payment of money within the District of Columbia, approved July 1, 1922 (42 Stat. 820; D.C. Official Code § 22-1510).

- Redefines the crime of being loud, threatening, or using abusive language in a public conveyance if it disrupts others to include an intent to disrupt others in the conveyance and public buildings;⁴
- Includes escaping a correctional facility with the penalties for escaping a penal institution;⁵
- Makes various changes to the members of the Criminal Justice Coordinating Council and designates the Council as a criminal justice agency;⁶
- Makes fleeing from an officer in a vehicle a dangerous crime and assault with significant bodily injury a crime of violence.⁷

Title II – Probable Cause Misdemeanor Arrests

These provisions make changes to when law enforcement officers can make arrests for misdemeanors and felonies. The first amendments allow federal law enforcement officers, who have a cooperative agreement with the Metropolitan Police Department, to arrest for a misdemeanor if probable cause exists and the offense does not have to occur in the officer's presence.⁸ The second amendment allows any law enforcement officer to arrest for any felony or misdemeanor without a warrant so long as probable cause exists.⁹

Title III – Controlled Substances

The bill adds to the list of Schedule I controlled substances,¹⁰ the following substances:

- Alpha-methyltryptamine (AMT);
- 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT);
- 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);
- 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
- 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
- 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
- 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
- 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
- 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);
- Gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
- Methcathinone (Some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-

⁴ District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (67 Stat. 98; D.C. Official Code § 22-1321).

⁵ Indeterminate Sentence Act, approved July 15, 1932 (47 Stat. 698; D.C. Official Code § 22-2601).

⁶ Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4231 *et seq.*).

⁷ D.C. Official Code § 23-1331 and § 23-1332.

⁸ Federal Law Enforcement Officer Cooperation Act of 1999, effective May 9, 2000 (D.C. Law 13-100; D.C. Official Code § 5-301).

⁹ D.C. Official Code § 23-581

¹⁰ District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.04).

methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts of optical isomers, as well as synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to methcathinone;

- 4-methyl-N-methylcathinone (other name: mephedrone);
- 3,4-methylenedioxypropylvalerone (other name: MDPV);
- 3,4-methylenedioxy-N-methylcathinone (other name: methylone);
- Naphthylpyrovalerone (naphyrone);
- 4-fluoromethcathinone (flephedrone);
- 4-methoxymethcathinone (methedrone; Bk-PMMA);
- Ethcathinone (N-Ethylcathinone);
- 3,4-methylenedioxyethylcathinone (ethylone);
- Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (butylone);
- N,N-dimethylcathinone (metamfepramone);
- Alpha-pyrrolidinopropiophenone (alpha-PPP);
- 4-methoxy-alpha-pyrrolidinopropiophenone (MOPPP);
- 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (MDPPP);
- Alpha-pyrrolidinovalerophenone (alpha-PVP);
- 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (MDAI);
- 3-fluoromethcathinone; and
- 4'-Methyl- α -pyrrolidinobutiophenone (MPBP);

The bill also amends Schedule III¹¹ controlled substances to include any substance that includes any quantity of cannabimimetic agents.¹² Lastly, this Title adds Fospropofol as a Schedule IV controlled substance.¹³

Title IV – Assault on Public Vehicle-for-Hire Inspectors¹⁴

The bill defines and makes illegal the assault or aggravated assault of a public vehicle-for-hire inspector by a public vehicle-for-hire driver. Both cases result in the revocation of a public vehicle-for-hire license and assault could lead to a 90 day term of imprisonment and aggravated assault could lead to a 10 year term of imprisonment.¹⁵ Next, the bill defines and makes illegal two offenses for fleeing from a public vehicle-for-hire inspector. First, fleeing from an inspector could result in a 180 day term of imprisonment with license revocation for 180 days, at the DC Taxicab Commission Chairman's discretion, commencing after the imprisonment term. Second, fleeing in a reckless manner from an inspector could result in a 5 year term of imprisonment with one year license suspension, at the Chairman's discretion, commencing after the term of imprisonment. The bill also provides factors, which can be considered by the courts, in an affirmative defense of either fleeing offense.

¹¹ District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.08).

¹² The bill defines cannabimimetic agents as one that is a cannabinoid receptor type 1.

¹³ District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.10).

¹⁴ District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*).

¹⁵ The bill also allows for a fine to be assessed as provided for the in the Fine Proportionality Amendment Act of 2012, passed November 1, 2012 (D.C. Bill 19-214).

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Title V – Miscellaneous Provisions

The last section makes two changes. First, the bill ensures that members of the Science Advisory Board are not members of the District Department of Forensic Sciences or any other law enforcement laboratory or agency.¹⁶ Second, the bill prohibits custody or visitation rights for an individual if that individual was convicted of first or second-degree sexual abuse or child sexual abuse if the abuse resulted in the conception of the child.¹⁷

Financial Plan Impact

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

For any new or enhanced offenses enumerated in the bill,¹⁸ the Office of Revenue Analysis is unable to determine how many offenders would be fined or incarcerated. Any fines generated would be deposited into the Crime Victims Compensation Fund which is managed by the DC Courts. Since DC Courts are federally funded, there would be no impact on the District's budget.

The provisions which add substances to the District's current list of controlled substances align District law with Federal law and ensure cases will be brought to the Superior Court of the District of Columbia.

The remaining provisions are technical in nature and there is no impact on the District's budget associated with those changes.

¹⁶ Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.11(a)(1)).

¹⁷ D.C. Official Code § 16-904.

¹⁸ Including those in Titles I, II, IV, and V.