

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



Glen Lee
Chief Financial Officer

MEMORANDUM

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

FROM: Glen Lee
Chief Financial Officer

DATE: November 30, 2022

SUBJECT: Fiscal Impact Statement – Corrections Oversight Improvement
Omnibus Amendment Act of 2022

REFERENCE: Draft Bill 24-76, as provided to the Office of Revenue Analysis on
November 10, 2022



Conclusion

Funds are not sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. The bill will cost \$575,000 in fiscal year 2023 and a total of \$2.3 million over the four-year financial plan.

Background

Section 2

The Fire and EMS Department (FEMS) issues, under the executive authority of the Fire and EMS Chief, orders in several formats, including an Order Book, General Orders, Special Orders, Standard Operating Procedures, etc. District law also provided authority to the Council to issue rules regarding the operational and personnel issues of the District's fire department, and rules issued under that authority remain technically in effect, causing confusion and conflicting sources of authority. The bill repeals the Council's authority to issue these rules.

Section 3

The bill requires¹ the Executive Director of the Office of Neighborhood Safety and Engagement (ONSE) to be appointed by the Mayor with the advice and consent of the Council. Currently the appointment of the Executive Director is not subject to Council review. The Executive Director will continue to serve at the pleasure of the Mayor.

¹ By amending the Neighborhood Engagement Achieves Results Act of 2015, effective June 30, 2016 (D.C. Law 21-125; D.C. Official Code § 7-2411(c)).

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Section 4

The bill requires² the Criminal Division of the Superior Court, by October 1, 2023, to appoint a panel of special education attorneys to represent indigent emerging adult defendants with disabilities in criminal proceedings. To fund this, beginning in fiscal year 2023 and every year after, the Office of Victim Services and Justice will issue a grant to a legal services and advocacy organization serving older students with special education needs who are involved in the District's juvenile and criminal legal systems. The availability of these special education attorneys at the Superior Court will be contingent on the availability of funding.

Section 5

The bill clarifies³ that the chapter of the District Official Code pertaining to strategic lawsuits against public participation does not apply to any claim brought by the District government, including District public charter schools. This exemption will apply as of March 31, 2011, and to any claims pending as of the effective date of the Anti-SLAPP Emergency Amendment Act of 2021.⁴

Section 6

The bill expands⁵ the membership of the Criminal Justice Coordinating Council (CJCC) to include the Executive Director of the Office of Neighborhood Safety and Engagement and the Director of the Office of Gun Violence Prevention. The bill also changes⁶ the content of reports the CJCC is required to submit every two years to the Mayor and Council. The report required previously CJCC to focus on the root causes of youth crime, whereas, moving forward, the report required by October 1, 2022, will focus on protective factors that reduce the risk of District youth entering the juvenile and criminal justice systems, and the report required by October 1, 2024, will focus on the types of school-based incidents that lead to law enforcement referral or arrest.

Section 7

The bill makes several amendments to the structure and duties of the Corrections Information Council (CIC).⁷ The bill provides that the Executive Director be appointed by the CIC's Board, rather than the Mayor. The Executive Director must have at least ten years of experience in corrections or criminal justice agency oversight. The CIC Board must meet at least quarterly. CIC's oversight and required reporting is expanded to any state or local prison or jail incarcerating a District resident or someone convicted under the District Official Code, and the CIC must review any complaints it receives from detained and incarcerated District residents and individuals convicted of D.C. Code violations in those facilities. The Board must work with the Executive Director to develop a plan for inspecting all the facilities in its purview. CIC's facility inspection reports must be made available to the public with 60 days of an inspection, and the reports must be followed within 180 days by a report detailing any subsequent actions taken or not taken by the facility.

The Executive Director must review all deaths of detainees or residents in Department of Corrections (DOC) facilities and prepare a report on the death, to be made public within 30 days of the death. CIC

² By amending D.C. Official Code § 16-714.

³ By amending D.C. Official Code § 16-5505.

⁴ Enacted Nov. 8, 2021, (D.C. Act 24-208; 68 DCR 12193).

⁵ By amending D.C. Official Code § 22-4233(a).

⁶ By amending D.C. Official Code § 22-4234.

⁷ By amending D.C. Official Code § 24-101.01.

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must monitor legislative and policy developments affecting correctional facilities in the United States and make recommendations to the Mayor and the Council on best practices.

CIC must provide two new annual reports, within 60 days of the end of the fiscal year: (1) a report on the conditions of confinement of and programming provided to District of Columbia youth offenders in the custody of the Bureau of Prisons; and (2) a report on the DOC, to include:

- the conditions of confinement of detained and incarcerated people under the jurisdiction of the DOC;
- food services;
- the use of force by DOC personnel;
- the use of safe cells and segregation
- career readiness and educational programming; and
- the prevalence of contraband and strategies for its reduction.

CIC must also provide a report on the Bureau of Prisons' and DOC's implementation of recommendations issued by the CIC within the past 5 years. The bill provides CIC with the authority to access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government that are necessary to facilitate the CIC's duties.

Section 8

The bill replaces⁸ the word "inmates" with the word "residents" in the section of the D.C. Official Code pertaining to central detention facility requirements.

Section 9

The bill updates the D.C. Official Code to remove outdated detention facility references. The bill requires DOC to provide unrestricted access to the Central Detention Facility, Correction Treatment Facility, and Central Cell Block for the purposes of oversight by the Chairperson of the Council committee with jurisdiction over DOC (Council committee), the CIC, and their staff, agents or designees. The access must allow for unannounced inspections of all areas; unmonitored interviews of residents and DOC staff, contractors, and volunteers; and, within 24 hours of a request, any surveillance or body-worn camera footage. DOC must also provide to the Council committee and the CIC unredacted copies of all draft new or revised Program Statements for comment by those entities prior to publication.

The bill creates reporting requirements for when a resident of a DOC facility dies. DOC must publish on its website, within 24 hours of the death, the resident's name, gender, race, ethnicity, and age; the date, time, and location of the death; and a brief description of the circumstances surrounding the death. The Council committee chair, the CIC, and the Deputy Mayor for Public Safety and Justice must be informed at the same time. The information must be updated within 24 hours after the results of an autopsy are received (to the extent permitted by law), and the information must be maintained on the website for a period of ten years.

Section 10

The bill makes⁹ clarifying edits to the definitions section of the D.C. Official Code pertaining to the Department of Corrections Employee Mandatory Drug and Alcohol Testing.

⁸ By amending D.C. Official Code § 24-201.71.

⁹ By amending D.C. Official Code § 24-211.21.

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Section 11

The bill repeals¹⁰ language in the D.C. Official Code that prohibits DOC from housing misdemeanants, felons, ex-offenders, or persons awaiting trial or sentencing in facilities on the D.C. General Hospital Campus other than the District of Columbia Jail or the Correctional Treatment Facility. The Hospital Campus has since been shut down and therefore the Code is outdated.

Section 12 & 13

The bill makes¹¹ clarifying edits and replaces references to an "inmate" or "prisoner" with "resident" or "person" in the section of the D.C. Official Code pertaining to the educational good time credits of people imprisoned.

Section 14

The bill repeals¹² the Prison Industries Act of 1996, which created a prison industries program that employed incarcerated people in a prison industry and created the Prison Industries Fund. The program is no longer in operation and therefore the Code is obsolete.

Sections 15-18

The bill makes¹³ clarifying edits, replaces the word "inmate" with "resident", and updates gendered language in sections of the D.C. Official Code pertaining to the resocialization furlough programs, fair phone charges for incarcerated residents, limitations on use of restraints on pregnant people, and a welfare fund for residents of a correctional facility.

Section 19

The bill gives¹⁴ certain amount of time credits to reduce the sentence of a person who has been convicted of a felony offense under District law and who successfully completes evidence-based recidivism reduction programming or productive activities.¹⁵ These time credit amounts are currently available under the federal First Step Act¹⁶ to people who violated a federal law. This section extends the credits to people who violated a District law and shall apply as of December 21, 2018.

Section 20-21

The bill makes¹⁷ technical changes and clarifying edits to the sections of the D.C. Official Code pertaining to the Clemency Board and the delivery of health care to residents at a Department of Corrections facility. They also replace the words "offenders" and "inmates" with other language.

¹⁰ By amending D.C. Official Code § 24-211.61.

¹¹ By amending D.C. Official Code § 24-221 et. seq.

¹² By amending D.C. Official Code § 24-231 et. seq.

¹³ By amending D.C. Official Code § 24-251 et. seq., § 24-263 et. seq., § 24-276 et. seq., § 24-281 et. seq.

¹⁴ By amending D.C. Official Code § 24-221.01 et seq.

¹⁵ Except for those persons determined to be ineligible by the Department of Corrections or Bureau of Prisons because of their conviction for a District offense analogous to an ineligible federal offense

¹⁶ Which amended 18 U.S.C. § 3624(b).

¹⁷ D.C. Official Code § 24-481 et. seq., § 24-1401

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Section 22

The bill makes¹⁸ the appointment of the Executive Director of the Office of Victim Services and Justice Grants subject to the advice and consent of the Council.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. The bill will cost \$575,000 in fiscal year 2023 and a total of \$2.3 million over the four-year financial plan.

To meet the bill's new reporting requirements and deadlines, CIC requires two new Program Specialist positions and non-personal services (NPS) funding for the staff's associated equipment and travel expenses. CIC also expects to issue a contract to help it meet the bill's requirement to monitor national policy developments affecting correctional facilities and to provide associated training to its staff. DOC will also require two new positions. A Program Analyst will prepare documentation and records for the CIC. An additional Auditor is required to expand the hours when personnel from CIC or Council may inspect DOC facilities and will be accompanied by an Auditor during their inspections. In total, the bill will cost \$575,000 in fiscal year 2023 and a total of \$2.3 million over the four-year financial plan.

Corrections Oversight Omnibus Improvement Act of 2022					
Total Costs					
	FY23	FY24	FY25	FY26	Total
Two CIC Program Specialists (Salaries and fringe)	\$243,000	\$247,000	\$252,000	\$256,000	\$998,000
NPS for CIC	\$10,000	\$5,000	\$5,000	\$5,000	\$25,000
CIC Contract for national policy experts	\$100,000	\$102,000	\$104,000	\$106,000	\$412,000
Total CIC Costs	\$353,000	\$354,000	\$361,000	\$367,000	\$1,435,000
DOC Program Analyst and Auditor (Salary and Fringe)	\$217,000	\$221,000	\$225,000	\$230,000	\$893,000
NPS for DOC	\$5,000	\$0	\$0	\$0	\$5,000
Total DOC Costs	\$222,000	\$221,000	\$225,000	\$230,000	\$898,000
Total Costs	\$575,000	\$575,000	\$586,000	\$597,000	\$2,333,000

The bill's special education attorney provisions under Section 4 have been funded in the Office of Victim Services and Justice Grants with \$300,000 in recurring funds in its fiscal year 2023 budget. The bill provides that the availability of the special education attorneys at the Superior Court will be contingent on the availability of funding each year.

¹⁸ By amending the Section 201(a)(2) of the Expanding Supports for Crime Victims Amendment Act of 2022, passed on 1st reading on October 4, 2022 (Engrossed version of Bill 24-75).