

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



**Jeff DeWitt**  
Chief Financial Officer

**MEMORANDUM**

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

**FROM:** Jeff DeWitt  
Chief Financial Officer

**DATE:** June 19, 2014

**SUBJECT:** Fiscal Impact Statement – Post-Arrest Process Clarification  
Amendment Act of 2014

**REFERENCE:** Bill 20-323, Draft Committee Print as Shared with the Office of Revenue  
Analysis on June 18, 2014

A handwritten signature in black ink, reading "Jeffrey S DeWitt".

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**Conclusion**

Funds are sufficient in the proposed FY 2015 through FY 2018 budget and financial plan to implement the bill.

**Background**

The bill clarifies and amends a number of procedures related to arrests and post-arrest releases that law enforcement officials can rely upon in handling offenders of some low-level misdemeanors. Many of the bill's provisions are current law enforcement practice, but are not properly codified.

First, the bill reinforces that any arrests in the District should be processed in an expeditious manner, ensuring both the safety of the community and the offender's appearance before a judicial officer.

Second, the bill codifies a general framework for field arrests – a process by which law enforcement officers issue an arrest without taking custody of the offender, but require that he or she return to the police station within fifteen days to complete the arrest process. The Chief of the Metropolitan Police Department (MPD) sets forth which misdemeanor offenses are eligible for field arrests.

Third, the bill addresses two release options for law enforcement related to low-level misdemeanors: citation release and post-and-forfeit release. The bill creates a releasing official<sup>1</sup>

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<sup>1</sup> The releasing official is appointed by the Superior Court of the District of Columbia and no additional compensation is associated with the appointment.

who will be an existing law enforcement individual, but will be given the authority to impose the two post-arrest release options. For citation release, the releasing official will give the offender a notice to appear in court at a later date; thus releasing that individual from custody.<sup>2</sup> The releasing official can also impose limited restrictions on the release, such as a requirement to stay away from a particular person or place. An offender is not eligible for citation release if the releasing official believes the offender will cause injury to himself or herself, or another person, not appear in court, or if he or she commits a more serious offense, such as a felony, dangerous crime,<sup>3</sup> interpersonal violence,<sup>4</sup> intrafamily violence,<sup>5</sup> or is in violation of a court order.

If the offender is not eligible for citation release, the releasing official may still issue a citation, under the approval of the prosecuting authority, if the Chief Judge of the Superior Court declares an event or condition that significantly impairs the function of the court, the offender has been admitted to the hospital, or court is not in session and there is no reason to believe the person arrested should be held in custody pending a court appearance.

The bill also authorizes MPD officers to arrest an individual without a warrant, if the said person were released on a citation with conditions (such to avoiding a certain person or place), and violated these conditions. Additionally, if the individual fails to appear as directed in the citation, he or she will be fined or imprisoned consistent with the original offense.<sup>6</sup>

Post-and-forfeit is a release option that allows an offender to resolve a charge without conviction, but maintain the offense on his or her arrest record. The bill mainly clarifies existing post-and-forfeit procedures, but also ensures that the release of an arrest record for any individual does not include the forfeiture of collateral made as part of the post-and-forfeit procedure.<sup>7</sup>

### **Financial Plan Impact**

Funds are sufficient in the proposed FY 2015 through FY 2018 budget and financial plan to implement the bill. The Metropolitan Police Department will be primarily responsible for implementing the bill and can absorb any costs related to new forms and notices.

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<sup>2</sup> The releasing official cannot be subject to any private right of action or give rise to any rights enforceable by injunction, mandamus, or otherwise.

<sup>3</sup> As defined in D.C. Official Code §§ 23-1331(3) and 23-1331(4).

<sup>4</sup> As defined in D.C. Official Code §§ 16-1001(6)(B) and 16-1001(7).

<sup>5</sup> As defined in D.C. Official Code § 16-1001(9).

<sup>6</sup> If the offense is a misdemeanor, the penalty is the same as provided for with the original offense. If the offense is a felony, the penalty is up to \$5,000 or five years in prison, or both.

<sup>7</sup> Current law states that an arrest record contains all adult convictions where sentences were completed and any collateral forfeitures going back not more than ten years (D.C. Official Code § 2-1402.66(b)(1)(C) and 1 DCMR § 1004.4).