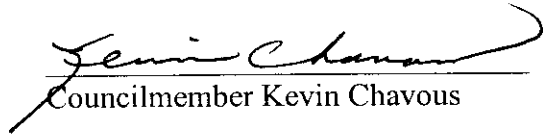




Councilmember Phil Mendelson


Councilmember Kevin Chavous


Councilmember Jim Graham

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Phil Mendelson introduced the following bill, which was referred to the
Committee on _____.

To amend Chapter 23 of Title 16 of the District of Columbia Official Code to require that the
transfer petition identify the parent or guardian of the child; to allow a longer time to
complete the transfer hearing; to allow the transfer hearing without the report from the
Director of Social Services; to allow for transfer to the criminal division where it is
necessary to ensure the safety of another person; to include safety of an individual and
impact on victims as transfer factors; to allow for transfer where a child has 3 or more
delinquencies; to require that the parent or guardian personally attend all court hearings
and meetings and participate in all services ordered by the court; to require the court to
consider victim impact; to allow notification of the Housing authority and the public
schools where a child has a third or subsequent delinquency; and to require the delinquent
child and his parent or guardian to pay restitution up to \$10,000.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
act may be cited as the "Juvenile Justice Act of 2003".

Sec. 2. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as
follows:.

(a) Section 16-2305 is amended as follows:

(1) Subsection (c) is amended by adding at the end:

“Where the delinquency petition filed by the Corporation Counsel is the third petition filed against that individual child, the Corporation Counsel shall institute a child neglect investigation against the parent, guardian, or custodian of the child.”

(2) Subsection (d) is amended by striking the phrase “on which the charge is based” and inserting the phrase “on which the charge is based and identify the parent, guardian, or custodian of the child with the responsibility for the welfare of the child” in its place.

(b) Section 16-2307 is amended as follows:

(1) Subsection (d) is amended to read as follows:

“(d)(1) Unless a commitment under subsection (c) of this section has intervened, the Division shall conduct a hearing on each transfer motion to determine whether to transfer the child for criminal prosecution. This hearing shall be held within twenty days (excluding Sundays and legal holidays) of the filing of the transfer motion. The Division shall order the transfer if it determines that:

“(A) It is in the interest of the public welfare and protection of the public security;

“(B) It is necessary to ensure the safety of any other person or the community; or

“(C) There are no reasonable prospects for rehabilitation.

“(2) A statement of the Division’s reasons for ordering the transfer shall accompany the transfer order. The Division’s findings with respect to each of the factors set forth in subsection (e) of this section relating to the public welfare and protection of the public security or the safety of any other person or the community shall be included in the statement.

This statement shall be available upon request to any court in which the transfer is challenged, 1
but shall not be available to the trier of fact of the criminal charge prior to verdict.”. 2

(2) Subsection (e) is amended as follows: 3

(A) The lead-in language is amended to read as follows: 4

“(e) Evidence of the following factors shall be considered in determining whether to 5
transfer a child for criminal prosecution pursuant to subsection (d) of this section:” 6

(B) Paragraph (5) is amended by striking the word “and” at the end. 7

(C) Paragraph (6) is amended by striking the period at the end and 8
inserting a semicolon in its place. 9

(D) New paragraphs (7) and (8) are added to read as follows: 10

“(7) The safety of any individual; and 11

“(8) The impact on victims.”. 12

(3) Subsection (e-2) is amended as follows: 13

(A) Paragraph (3) is amended by striking the word “or” at the end. 14

(B) Paragraph (4) is amended by striking the phrase “and the child has 15
three or more prior delinquency adjudications.” and inserting the phrase “; or” in its place. 16

(C) A new paragraph (5) is added to read as follows: 17

“(5) Any time the child has two or more prior delinquency adjudications.”. 18

(4) Subsection (f) is amended by adding the following two sentences at the end: 19

“Upon motion of either of the parties, the court may grant one continuance, not to exceed 10 20
days, to procure the report; provided, that the hearing shall proceed following the continuance 21
whether or not the report is available. The court may take such other evidence it deems 22

necessary to make its determinations pursuant to this section.”. 1

(c) A new section 16-2308.01 is added to read as follows: 2

“§ 16-2308.01. Responsibility of parent, guardian, or custodian. 3

“(a) The parent, guardian, or custodian of the child with the responsibility for the welfare 4
of the child shall: 5

 “(1) Personally attend and ensure the attendance of the child at all court hearings; 6

 “(2) Personally attend and assure the attendance of the child at all meetings with 7
the Director of Social Services and collateral support services agencies occasioned by the action; 8

 “(3) Fully participate in all services ordered by the court, including, but not 9
limited to, substance abuse treatment, parenting classes, mediation, and community service; 10

 “(4) Pay a portion, or all, of any restitution or fines imposed by the court if the 11
court finds the payment by the parent to be in the interest of justice and rehabilitation; 12

 “(5) Supervise the child’s compliance with all orders of the court and conditions 13
of release and probation, including, but not limited to, curfew, school attendance, and general 14
behavior. 15

“(b) Failure of the parent, guardian, or custodian to supervise and otherwise accept 16
responsibility for the child as required by this section may be treated as criminal contempt of 17
court punishable by not more than a \$1,000 fine, 180 days imprisonment, or both. It shall be an 18
affirmative defense to any charge of contempt that the parent, guardian, or custodian of the child 19
with the responsibility for the welfare of the child made reasonable efforts to comply or had 20
employment obligations that made compliance impossible.”. 21

(d) Section 16-2316 is amended by adding the following new subsection (e-1) to read as 22

follows: 1

“(e-1) In cases which include delinquency adjudications, victims and victim families shall 2
be permitted to attend detention, transfer and dispositional hearings. 3

(e) Section 16-2319 is amended by adding a new subsection (d) to read as follows: 4

“(d) The Director of Social Services shall procure victim impact statements and deliver 5
such to the Division in all delinquency cases.”. 6

(f) Section 16-2320 is amended as follows: 7

(1) subsection (c) is amended by adding after “in the best interest of the child” the 8
phrase “and the interest of the public welfare and protection of the public security”; 9

(2) by adding a new subsection (c-2) to read as follows: 10

“(c-2) If a child has been found to be delinquent two or more times, the Division shall 11
provide notice of the delinquent act and the disposition to: 12

“(1) The Superintendent of D.C. Public Schools; 13

“(2) The Chief of Police; and 14

“(2) The Director of the District of Columbia Housing Authority, if the child’s 15
address of record is owned or operated by the District of Columbia Housing Authority.”. 16

(g) A new section 16-2320.01 is added to read as follows: 17

“§ 16-2320.01. Restitution. 18

“(a) If a child has been found to be delinquent, a victim is presumed to have a right to 19
restitution if the victim or the District of Columbia requests restitution and the court is presented 20
with competent evidence of any of the conditions listed in subsection (b) of this section. 21

“(b) In addition to any other penalty imposed for the commission of the delinquent act, 22

the Division may order a child found to be delinquent, or the child’s parent, guardian, or
custodian, to make restitution if, as a direct result of the delinquent act:

“(1) Property of the victim was stolen, damaged, destroyed, converted, or
unlawfully obtained, or its value substantially decreased;

“(2) The victim suffered:

“(A) Actual medical, dental, hospital, counseling, funeral, or burial
expenses;

“(B) Loss of earnings; or

“(C) Any other direct out-of-pocket loss;

“(3) The victim incurred medical expenses that were paid by the Department of
Health or any other governmental unit; or

“(4) A governmental unit incurred expenses in removing, towing, transporting,
preserving, storing, selling, or destroying an abandoned or stolen vehicle.

“(c) An order of restitution shall not preclude the victim or the District of Columbia from
bringing a civil action to recover damages accrued as a result of the delinquent act; provided, that
any civil monetary judgement shall be reduced by the amount paid as restitution under this
section.

“(d)(1) Notwithstanding any other law, the court may order the child, the child’s parent,
guardian, or custodian, or both, to pay restitution to a victim or the District of Columbia.

“(2) An order of restitution under this section may not exceed \$10,000 for all acts
arising out of a single incident, whether assessed against the child, the child’s parent, guardian, or
custodian, or both.

“(3) A court may not enter an order of restitution against a delinquent child’s parent, guardian, or custodian under subsection (b) of this section unless the parent, guardian, or custodian has been afforded a reasonable opportunity to be heard and present evidence.

“(4) A hearing under this subsection may be held as part of the disposition hearing.

“(e) A court need not issue an order of restitution under this section if the court finds:

“(1) The obligor does not have the ability to pay the restitution; or

“(2) There are extenuating circumstances that make an order of restitution inappropriate.

“(f) The court may order that restitution be paid to the following, in order of priority:

“(1) The victim;

“(2) The Department of Health, Department of Human Services, the Crime Victims’ Compensation Board, or any other governmental unit; or

“(3) A third-party payor, including an insurer, or any other person who has compensated the victim for a property or pecuniary loss under this section.

“(g)(1) A written statement or bill for medical, dental, hospital, counseling, funeral, or burial expenses is legally sufficient evidence that a charge shown on the written statement or bill is a fair and reasonable charge for the services or materials provided.

“(2) A person who challenges the fairness and reasonableness of the amount on the statement or bill has the burden of proving that the amount is not fair and reasonable.

“(h) The court may enter an immediate and continuing earnings withholding order in an amount sufficient to pay any restitution ordered under this section. The court may enter the

withholding order: 1

“(1) At the disposition hearing; 2

“(2) When the child is placed on work release or probation; or 3

“(3) When the payment of restitution is overdue.”. 4

Sec. 3. Fiscal impact statement. 5

The Council adopts the fiscal impact statement in the committee report as the fiscal 6
 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, 7
 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3). 8

Sec. 4. Effective date. 9

This act shall take effect following approval by the Mayor (or in the event of veto by the 10
 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as 11
 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 12
 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of 13
 Columbia Register. 14