

ANTHONY A. WILLIAMS
MAYOR

Honorable Linda W. Cropp
Chairman
Council of the District of Columbia
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Dear Chairman Cropp:

Enclosed for consideration and enactment by the Council of the District of Columbia is the "Omnibus Juvenile Justice, Victim's Rights and Parental Participation Act of 2003." This bill addresses, in a comprehensive manner, some of the critical issues that face our juvenile justice system. It updates many of the provisions in Chapter 23 of Title 16 of the District of Columbia Official Code, and resolves conflicts that exist between current provisions in Title 16 and other law. The bill consists of 12 titles, which are described in more detail below.

Title I – Purpose Clause.

Pursuant to the recommendation of the Blue Ribbon Commission on Juvenile Justice, the "Purpose Clause Act of 2003" establishes a preamble to Chapter 23 of Title 16 of the D.C. Official Code. This preamble sets out the various missions and goals of our juvenile justice system and recognizes the importance of balancing the goal of rehabilitation with the interests of the public, the safety of the community, and the rights of victims.

Title II – Juvenile Competency.

This title, the "Juvenile Competency Act of 2003", will address the substantial need to provide procedures for adjudicating, and a process for treating, young offenders who are incompetent to stand trial in a delinquency case. Since the D.C. Court of Appeals found the present statute unconstitutional in *In Re W.A.F.* (*W.A.F.*) 573 A.2d 1264 (D.C. 1990), these youth have not received the attention and care required to address their mental health or other needs and our community has remained vulnerable to the likelihood that these youth will re-offend.

D.C. Official Code § 16-2315(c)(1), which contains the law found to be unconstitutional in *W.A.F.*, permitted the adjudication of certain youth on a delinquency charge, even if the youth was found to be incompetent. The clear intent of the statute was to ensure that young offenders receive treatment. However, as noted by the Court of Appeals, juveniles alleged to be delinquent are entitled to many of the same constitutional rights as their adult criminal

counterparts. As such, the Court of Appeals held that adjudicating a youth delinquent who is incompetent, though intended to provide rehabilitative treatment, violated due process.

Today, we are faced with many challenges in our juvenile justice system. Among those challenges is the need to close the gap that was left when D.C. Official Code § 16-2315(c)(1) was found unconstitutional. The proposed legislation seeks to fill that gap by providing the constitutionally valid standard for adjudicating a juvenile's competency to participate in pending delinquency proceedings and by providing a mechanism to treat incompetent juveniles while adhering to the constitutional standards to which they are entitled. In addition, the bill provides a long overdue process for providing treatment to these young persons, in an effort to prevent them from re-offending, while recognizing the community's right to be safe.

Title III – Juvenile Confidentiality.

This title, the “Juvenile Confidentiality Act of 2003”, seeks to resolve a number of problems that arise as a result of the current laws regarding the confidentiality of juvenile records. This legislation is intended to ensure that these statutes do not impede the efforts of various agencies to carry out their statutory functions, while also respecting the confidentiality concerns that arise with respect to juvenile court records, social records and law enforcement records.

The bill resolves a conflict between the current confidentiality statutes and other recently enacted laws. First, it recognizes the enactment of the Family Court Act of 2001, by permitting the sharing of information between District agencies, which, pursuant to the Family Court Act, are required to coordinate the delivery of services to families under the jurisdiction of the Family Court. Though the Family Court Act requires the coordination of services between agencies, the current statutes limit the ability of these agencies to share information about juvenile family members. This legislation resolves that conflict by permitting the sharing of information that is necessary for the involved agencies to carry out their official duties.

Second, the bill resolves a conflict created by the enactment of the Improved Child Abuse Investigations Act of 2002. That law now requires that certain entities participate in the joint investigation of allegations of sexual abuse and certain categories of physical abuse against children. However, the current confidentiality statutes substantially impede the ability of the participating entities from sharing critical information as part of their joint investigation, because the current laws do not permit the sharing of juvenile information with all members of the investigative team. This title resolves this conflict by making it lawful for the participants in the joint investigation to share information that is necessary for them to carry out their official duties.

Third, the legislation seeks to address a number of other impediments that are a result of the current outdated statutes. The bill permits, under limited circumstances, the sharing of certain information, at the discretion of the Corporation Counsel, regarding a juvenile court case with victims, with family members of child victims, with family members of persons who have been killed at the hands of a juvenile, or with a witness. For example, this title would permit a victim or witness to know if a judge has issued an order that requires the juvenile offender to stay away

from the victim or witness. It also permits certain juvenile law enforcement records to be disclosed to victims or witnesses. These changes seek to redress an inequity in that the current law, which fails to recognize the rights of victims and witnesses who have suffered at the hands of a juvenile offender. All members of our community are entitled to be treated with dignity; the bill recognizes this by extending those dignities to the victims of juvenile offenders.

Finally, this title permits the sharing of information that presently impedes the ability of prosecutors and law enforcement officers to conduct investigations and gather information that is essential to their official duties. For example, this title allows the sharing of information regarding a juvenile's court ordered placement with prosecutors and law enforcement officers who may be seeking information from that juvenile as an essential witness in a case, or where the juvenile offender has been charged as an adult with a crime, but cannot be arrested because his placement may not be disclosed under current law.

This title recognizes the importance of maintaining the confidentiality of juvenile case records, social records, and law enforcement records, but also recognizes that the current laws impede the ability of many agencies—those that provide services to families and others that protect our communities—to carry out their statutory duties. The legislation seeks to redress those conflicts and seeks to confer upon certain victims and witnesses the right to be treated fairly, to be informed, and to be treated with dignity, after suffering at the hands of a juvenile offender.

Title IV - Transfer of Violent Juvenile Offenders.

This title, the “Violent Juvenile Offenders Transfer Act of 2003”, seeks to address the proliferation of the most violent juvenile offenders in the juvenile justice system. These violent offenders pose a substantial and recurring threat to the safety of our community and fruitlessly detract significant resources that should be focused on the youth who can be successfully rehabilitated.

Today, we are faced with many challenges in our juvenile justice system. It is clear that our community is calling upon us to act swiftly to respond to the most violent juvenile offenders. The proposed legislation seeks to redress this problem by reducing the legal burden on the government in transferring the most violent juvenile offenders--those who present a clear danger to the public safety and who are not amenable to rehabilitation--for prosecution as adults.

The legislation shifts the burden of proof to certain violent juvenile offenders to prove that they are not a danger to the public safety and that they are amenable to rehabilitation by the age of twenty-one. Additionally, for other violent juvenile offenders, the legislation creates a rebuttable presumption that the juvenile cannot be rehabilitated by the age of twenty-one, although the ultimate burden of proof in these cases would remain on the government. The legislation does not lower the age of transfer, it merely seeks to shift the burden of proof when, under the most extreme circumstances, such motions are filed by the District of Columbia.

Finally, this title also addresses the issue regarding how lengthy the transfer process has historically taken under the current statute. To that end, the legislation establishes a clear time

limit of thirty days from the filing of the transfer motion to commence the hearing, which is more reasonable than the ten days granted under existing law. The more reasonable period of thirty days will better enable counsel for the juvenile to prepare his or her case. Moreover, the legislation would permit the court to grant one continuance of an additional thirty days for good cause, thus ensuring that the hearing occur at the very most, no more than sixty days after the motion to transfer has been filed. The legislation would also require that the court render a final decision whether to transfer no more than one year from the date the motion was filed.

Title V – Corporation Counsel Subpoena Authority.

This title, the “Corporation Counsel Subpoena Authority Act of 2003”, expands the subpoena authority already granted to the Executive Branch to investigate, and when appropriate, record statements made by witnesses by granting authority to the Corporation Counsel to issue subpoenas when conducting criminal or delinquency investigations in specified limited circumstances. This bill carefully balances the government’s interest in ensuring the public safety by securing adjudications and convictions while providing protections to the subpoenaed witnesses.

Under current law the Office of the Corporation Counsel has no mechanism to compel witnesses to share information that they have regarding criminal events except at court hearings. If the witnesses refuse to cooperate, under most circumstances, prosecution must be declined. Thus, juveniles do not receive needed care and rehabilitation and the community has no protection from individuals who usually commit new crimes. This title addresses this problem by establishing a procedure that permits the Corporation Counsel to subpoena witnesses for criminal and delinquency investigations. This title would establish a process for enforcing and contesting the subpoena. It also grants rights to witnesses who are served with a subpoena. It provides that subpoenaed individuals have the right to be accompanied by counsel during their questioning by the Corporation Counsel and at any hearings on their neglect or refusal to obey the subpoena. It requires the Corporation Counsel to advise the witnesses of their rights at the time that they are subpoenaed. Finally, it provides that the parties to the investigations shall not disclose testimony taken pursuant to a subpoena except in limited delineated circumstances.

Title VI – Juvenile Disposition.

As you are aware, the court may dismiss delinquency cases without adjudication if a judge finds that the youth is not in need of care or rehabilitation. This title, the “Juvenile Disposition Act of 2003”, sets standards that the court must apply before a case can be dismissed on these grounds.

D.C. Official Code § 16-2317(d) currently provides that, notwithstanding that the court finds that the allegations in a delinquency petition have been proven beyond a reasonable doubt, “[i]f the Division finds that the child is not in need of care or rehabilitation it shall terminate the proceedings and discharge the child from detention...” However, the Code does not set standards for the court to use when deciding whether a case should be dismissed or whether the youth is in need of services that can be provided through a period of probation or commitment.

This title requires that the court find by clear and convincing evidence that a juvenile who has pled or been found guilty of an offense is not in need of care or rehabilitation before the court can dismiss the matter. It clarifies the Code by clearly stating that it is at the disposition (sentencing) hearing when the court should address whether the youth is in need of care or rehabilitation. This title would also confirm that a case may not be dismissed merely because a child is receiving care and rehabilitation in another case.

Title VII – Juvenile Failure to Appear Offense.

This title, the “Juvenile Failure to Appear Offense Act of 2003”, is designed to address the concerns that the community has, as reflected in a series of articles in the Washington Post, about youth who absent themselves from the Juvenile Justice System after delinquency charges are brought. Unlike adult defendants, there are no increased sanctions that are mandated for juveniles who fail to appear for delinquency hearings and opportunities to provide for needed care or rehabilitation are lost.

Adults who fail to appear at hearings are subject to criminal prosecution for their failure to appear. That statute, currently codified at D.C. Official Code § 23-1327 and commonly referred to as the Bail Reform Act, provides criminal penalties for defendants who do not appear for court hearings. This title is based on D.C. Official Code § 23-1327, but adapts the provision to the needs of the Juvenile Justice System. The bill would establish an offense for a child’s willful failure to appear for a delinquency hearing. It would also establish a presumption that a child who fails to appear for a delinquency hearing is in need of care or rehabilitation.

Title VIII – Victims of Juvenile Offenders Bill of Rights and Delinquency Accountability.

Unlike victims of adult crimes, victims of juvenile crimes do not currently have a right to attend hearings or to present victim impact statements. Victims of juvenile crimes are not even permitted to know if the person who committed a crime against them has been detained pretrial or committed to a facility. This title, the “Victims of Juvenile Offenders Bill of Rights and Delinquency Accountability Act of 2003”, seeks to redress these problems.

In 1989, legislation was first enacted to establish rights for victims of crimes in which the alleged offender is an adult. Those statutes, currently codified at D.C. Official Code § 23-103(b) and § 23-103a grant rights to the victims of adult offenders to be present at trials, sentencing and post-sentencing hearings, and to submit victim impact statements. In addition, courts are required to consider any victim impact statements that are submitted. This title creates similar rights for victims of juvenile offenders. It would provide that victims and witnesses to crimes committed by juveniles have certain rights including HIV/AIDS testing of the juvenile and the right to inspect records of the juvenile offender.

This title would also bring the District of Columbia in line with surrounding jurisdictions that provide that restitution may be ordered against the parents of juveniles who have been adjudicated delinquent or against the juvenile offender. This title would provide that victims and witnesses be treated with dignity and respect for privacy, provided with a separate waiting area

during proceedings, if practicable, be informed of financial or social services assistance available to them, and promptly receive the return of property that was taken from them. Finally, this title would provide for the safety and privacy of victims and witnesses by precluding the disclosure of their name and address to the offender and his or her attorney prior to trial, unless otherwise required by law, and by requiring that a juvenile offender and his or her attorney or other agents, like an adult offender and his or her attorney or agents, be required to disclose their association with the accused when speaking with a potential witness in the case.

Title IX – Release of Certain Children in Need of Supervision.

Pursuant to the Recommendation of the Blue Ribbon Commission on Juvenile Justice, this title, the “Release of Certain Children in Need of Supervision Act of 2003”, would clarify current law by emphasizing that children who have been found in need of supervision should, except under certain circumstances, receive rehabilitative services in a community-based setting. Indeed, this title recognizes that these status offenders, unlike certain delinquent offenders, generally do not pose the same risks to the community and should, wherever appropriate, be treated in a community setting.

Title X – Periodic Evaluations.

Pursuant to the recommendation of the Blue Ribbon Commission on Juvenile Justice, the “Periodic Evaluations Act of 2003”, provides that the Youth Services Administration conduct periodic evaluations of juveniles who are under its legal custody. This title also provides that such evaluations be used to assist that agency, working with the juvenile, his or her attorneys, and the Corporation Counsel, to modify a juvenile’s treatment or services where such evaluations demonstrate that existing treatment or services are not effective. This important legislation will assist in providing a mechanism whereby the Youth Services Administration and other key stakeholders are working jointly to assess and improve the quality and effectiveness of the treatment and services provided to each juvenile in its legal custody.

Title XI – Individualized Treatment Plan.

This title, the “Individualized Treatment Plan Act of 2003”, provides, pursuant to the recommendation of the Blue Ribbon Commission on Juvenile Justice, that the Youth Services Administration prepare and initial assessment and, thereafter, a more detailed Individualized Treatment Plan, for each juvenile placed in its legal custody after disposition. This legislation will assist in providing an improved mechanism through which the Youth Services Administration can assess and develop a comprehensive plan for the treatment and services to be provided for each juvenile placed in its legal custody at disposition.

Title XII- Parental Participation and Accountability.

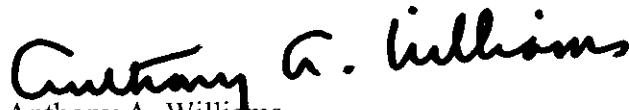
The “Parental Participation and Accountability Act of 2003” will enhance and improve existing law by requiring that parents and guardians of juveniles actively participate in the rehabilitative programs and services provided for a juvenile and in such other appropriate programs and

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services as required by court order. Although existing law permits the court to issue these orders of participation, the legislation requires it. Moreover, to combat the proliferation of drug abuse among those who care for our youth, this title makes it clear that judges have the authority to test parents and guardians for the use of illegal drugs and to order parents and guardians to participate in drug treatment where such testing reveals the use of illicit drugs. Finally, this title provides greater accountability on the part of parents and guardians, by providing for criminal contempt against parents and guardians who are subject to an order of participation and, unless as a result of certain delineated exceptions, they fail to comply. This legislation is essential to ensure that those who care for our at-risk youth actively participate in rehabilitative services and programs and are accountable for their participation.


I urge the Council to take prompt and favorable action on this critical proposed legislation.

Sincerely,


Anthony A. Williams

Enclosure

AAW/dmr


Chairman Linda W. Cropp
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Linda W. Cropp, at the request of the Mayor, introduced the following bill
which was referred to the Committee on _____.

To amend Title 16 of the District of Columbia Official Code to create a purpose clause that would establish a tone for the juvenile delinquency provisions of the Code, and would express the goals of the District in creating a juvenile justice system capable of dealing with the problem of juvenile delinquency, while treating children as children and protecting the needs of communities and victims alike; to amend Title 16 of the D.C. Official Code to establish a constitutional standard for adjudicating juvenile competency and a judicial procedure for committing an incompetent juvenile for treatment to attain competency, and to ensure that no incompetent juveniles are adjudicated delinquent; to amend Chapter 23 of Title 16 of the D.C. Official Code to ensure the ability of governmental agencies to share information to carry out their official duties, to amend juvenile confidentiality provisions to comport with the requirements of the Family Court Act of 2001 and the Improved Child Abuse Investigations Act of 2002, and to provide that victims and witnesses to crimes committed by juveniles have the right to certain information; to amend D.C. Code Official § 16-2307 to include a rebuttable presumption of no reasonable prospects of rehabilitation for juveniles charged with certain violent crimes and to shift the burden of proof for the transfer of juveniles age 15 years and older charged with murder, first degree sexual abuse, first degree child sexual abuse, burglary in the first degree, robbery while armed, carjacking while armed, assault with intent to commit any such offense, or assault with intent to kill, and to ensure that a transfer hearing is commenced within thirty days of the filing of a motion, subject only to one continuance of no more than thirty days, and that the judicial decision regarding transfer is rendered within a year of the filing of the motion to transfer; to authorize the Corporation Counsel to issue subpoenas when conducting a criminal or delinquency investigation in specified limited circumstances, to establish a process for enforcing and contesting the subpoena, to provide that the person served with a subpoena has the right to be accompanied by counsel at a hearing on the person's neglect or refusal to obey the subpoena and during questioning by the Corporation Counsel, and to require the Corporation Counsel to advise the person of the right to be accompanied by counsel; to amend Chapter 23 of Title 16 of the D.C. Official

1 Code to require that the court find by clear and convincing evidence that a
2 juvenile who has pled or been found guilty of an offense is not in need of care or
3 rehabilitation before the court can dismiss the matter at disposition, and to
4 confirm that a case may not be dismissed under this subsection only on the
5 grounds that a child is receiving care and rehabilitation in another case; to amend
6 Chapter 23 of Title 16 of the D.C. Official Code by establishing an offense for a
7 child's willful failure to appear for a delinquency hearing and to establish a
8 presumption that a child who fails to appear for a delinquency hearing is in need
9 of care or rehabilitation; to amend Chapter 23 of Title 16 of the D.C. Code to
10 provide that victims and witnesses to crimes committed by juveniles have certain
11 rights including HIV/AIDS testing of the juvenile, the right to be notified of and
12 present at certain hearings regarding the juvenile offender, the right to submit a
13 victim impact statement, the right to restitution, the right to certain information
14 regarding the juvenile offender, and to provide that victims and witnesses be
15 treated with dignity and respect for privacy, provided with a separate waiting area
16 during proceedings, if practicable, be informed of financial or social services
17 available to them, and the return of stolen property, and to ensure victim and
18 witness security by prohibiting the release of victim or witness names and
19 addresses unless otherwise required by law and by requiring a juvenile or an agent
20 of the juvenile to properly identify himself or herself when dealing with a victim
21 or witness; to amend section 16-2320 of the District of Columbia Official Code to
22 ensure that, under certain circumstances, a child found in need of supervision is
23 not committed to or placed in secured settings designed for delinquent youth; to
24 amend section 16-2323 of the District of Columbia Official Code to provide that
25 the Department of Human Services/Youth Services Administration shall conduct
26 periodic evaluations of a committed child to determine if the services provided to
27 the child have been effective; to amend section 16-2319 of the District of
28 Columbia Official Code to require that when legal custody has been transferred to
29 the Youth Services Administration pursuant to a dispositional order that the
30 Youth Services Administration conduct an evaluation of every child taken into
31 custody to determine the appropriate services necessary for rehabilitation of the
32 child and to develop an individual treatment plan for the child; and to amend
33 section 16-2325.01 of Title 16 of the D.C. Official Code to require the
34 involvement and participation of a parent, guardian or other person with whom a
35 child resides in the rehabilitation process of child and establish a criminal offense,
36 which may be prosecuted by the Corporation Counsel, if a parent, guardian or
37 other person with whom a child resides fails to comply with an order requiring his
38 or her participation in the rehabilitation process of child.

39
40 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

41 That this act may be cited as the "Omnibus Juvenile Justice, Victim's Rights and Parental
42 Participation Act of 2003".

43

1 Title I – Purpose Clause.

2 Sec. 101. This title may be cited as the “Purpose Clause Act of 2003”.

3 Sec. 102. Title 16 of the D.C. Official Code is amended by adding a new § 2300
4 to read as follows:

5 “Sec. 2300. The purpose of this chapter is to create a juvenile justice system
6 capable of dealing with the problem of juvenile delinquency, a system that will treat
7 children as children in all phases of their involvement, while protecting the needs of
8 communities and victims alike. In furtherance of this purpose, the following goals have
9 been established for delinquency cases in the Family Court:

10 “(1) To provide due process through which juveniles and all other interested
11 parties are assured fair hearings, during which applicable constitutional and other legal
12 rights are recognized and enforced.

13 “(2) To promote youth development and prevent delinquency through early
14 intervention, diversion, and community-based alternatives.

15 “(3) To preserve and strengthen families whenever possible and to remove a child
16 from the custody of his or her parents, guardian or other custodian only when it is
17 determined by the appropriate authority to be in his or her best interests or when
18 necessary for the safety and protection of the public.

19 “(4) To hold a child found to be delinquent accountable for his or her actions to
20 the extent of the child’s age, education, mental and physical condition, background and
21 all other relevant factors.

22 “(5) To place a premium on the rehabilitation of children with the goal of creating
23 productive citizens and to recognize that rehabilitation of children is inextricably

1 connected to the well-being and strength of their families.

2 “(6) To serve children in their own neighborhood and communities whenever
3 possible.

4 “(7) To achieve the foregoing goals in the least restrictive settings necessary, with
5 a preference at all times for the preservation of the family and the integration of parental,
6 guardian or custodial accountability and participation in treatment and counseling
7 programs.

8 “(8) To provide for the safety of the public at large.”

9 Sec. 103. The Council adopts the fiscal impact statement in the committee report
10 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
11 Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-
12 206.02 (c)(3)).

13 Title II - Juvenile Competency.

14 Sec 201. Short title.

15 This title may be cited as the “Juvenile Competency Act of 2003”.

16 Sec. 202. D.C. Official Code § 16-2307 is amended as follows:

17 (a) Section (c) is repealed.

18 (b) Section (d) is amended to read as follows:

19 “(d) Unless a commitment order under D.C. Official Code § 16-2315.01(e) has
20 intervened, the Division shall conduct a hearing on each transfer motion to determine
21 whether to transfer the child for criminal prosecution. This hearing shall be held within
22 ten days (excluding Sundays and legal holidays) of the filing of the transfer motion. The
23 Division shall order the transfer if it determines that it is in the interest of the public

1 welfare and protection of the public security and there are no reasonable prospects for
2 rehabilitation. A statement of the Division’s reasons for ordering the transfer shall
3 accompany the transfer order. The Division’s findings with respect to each of the factors
4 set forth in subsection (e) of this section relating to the public welfare and protection of
5 the public security shall be included in the statement. This statement shall be available
6 upon request to any court in which the transfer is challenged, but shall not be available to
7 the trier of fact of the criminal charge prior to verdict.”.

8 Sec. 203. Title 16 of the District of Columbia Official Code is amended as
9 follows:

10 (a) The Table of Contents for the title is amended by adding “16-2315.01”.
11 Incompetency in Juvenile Delinquency Cases.” after the phrase, “16-2315. Physical and
12 mental examinations.”

13 (b) Section 2315 (c) is repealed.

14 (c) A new section 16-2315.01 is added to read as follows:

15 **“§ 16-2315.01. Incompetency in Juvenile Delinquency Cases.**

16 “(a) Raising Competency. If, at any time after the filing of a petition and prior to
17 the conclusion of the fact-finding hearing or entry of a plea in a delinquency case, the
18 court has reason to believe that the child named in the petition may be incompetent to
19 proceed, the court shall order an evaluation of the child’s mental condition. The state of
20 respondent’s competency at the time of disposition shall not preclude the entry of a
21 disposition order under D.C. Official Code § 16-2320, as long as respondent was
22 competent at the time of the entry of the plea of guilty or at the time of the fact-finding
23 hearing.

1 “(b) Competency Evaluation.

2 “(1) An evaluation to determine competency shall be performed by at least one
3 psychiatrist, clinical psychologist or master's level psychologist who is qualified by
4 training and experience in forensic evaluation of juveniles.

5 “(2) The evaluation shall be conducted on an outpatient basis, except that the
6 court may order the evaluation be conducted on an inpatient basis if:

7 “(A) respondent has been ordered securely detained pursuant to D.C.
8 Official Code § 16-2310;

9 “(B) a psychiatrist examines the child and makes a written finding,
10 pursuant to D.C. Official Code §16-2315 (b)(2) that the child is in need of a mental health
11 examination which cannot be effectively provided on an outpatient basis; or

12 “(C) the court finds that hospitalization of the respondent for sufficient
13 evaluation on competency is necessary.

14 “(3) If an order for inpatient evaluation is made, the court may order the
15 respondent sent to a hospital or mental health facility or unit designated by the Mayor as
16 appropriate for evaluations of juveniles, or, if respondent has been detained, the court
17 may order that the evaluation be performed at a detention facility designated under D.C.
18 Official Code § 16-2313 (b)(3). The respondent shall be hospitalized or detained for such
19 time as necessary to perform an adequate evaluation of the respondent's competency, but
20 not to exceed thirty days from the date of admission to the hospital or detention facility.
21 The court may order respondent hospitalized or detained for an additional period, not to
22 exceed 30 days, if the mental health professional performing the evaluation deems that
23 such additional period is necessary to perform an adequate evaluation of the respondent's

1 competency.

2 “(4) An order for evaluation under this section shall include:

3 “(A) a copy of the petition;

4 “(B) the names and addresses of the attorney for the District of Columbia
5 and the attorney for the respondent, and

6 “(C) a summary of the reasons for the evaluation request. The court shall
7 require the attorney for the respondent to provide any available mental health and
8 educational records and other information that is deemed relevant for purposes of the
9 evaluation, and may issue such orders as may be necessary to assist the attorney for
10 respondent in gathering this information.

11 “(5) A report of the competency evaluation ordered under this section shall be
12 made in writing and served on the court and the attorneys of record. The report shall
13 include the respondent's capacity to understand the proceedings against him, including
14 the nature of the charges and range of potential options available to the court at
15 disposition, and the respondent's ability to assist his attorney. If found incompetent, the
16 evaluation shall state: the reasons and bases for that conclusion and the suspected cause
17 of the incompetence, and the recommended treatment to render respondent competent.

18 “(6) Within ten days of receipt of a competency evaluation, if either party intends
19 to challenge the findings contained within the evaluation, the court shall, upon request of
20 the challenging party, order that a second evaluation be conducted, consistent with the
21 procedures and requirements of paragraphs (1) through (5) of this subsection.

22 “(c) Hearing. A hearing on the respondent's competency is not required unless
23 one is requested by either party. If a hearing is held, respondent is presumed competent,

1 and the party alleging that the respondent is incompetent shall bear the burden of proving
2 by a preponderance of the evidence the respondent's incompetency, as defined in
3 subsection (d)(2). The fact that the respondent claims to be unable to remember the time
4 period surrounding the alleged offense shall not, by itself, bar a finding of competency if
5 the respondent otherwise understands the charges against him and can assist in his
6 defense. Nor shall the fact that the respondent is under the influence of medication bar a
7 finding of competency if the respondent is able to understand the charges against him and
8 assist in his defense while medicated. Respondent may not be found incompetent to
9 proceed on the basis of his age alone.

10 “(d) Findings.

11 “(1) If the court finds respondent competent, delinquency proceedings under this
12 chapter shall resume forthwith.

13 “(2) A finding of competency requires that the court find that respondent has the
14 sufficient present ability to consult with counsel with a reasonable degree of rational
15 understanding and the respondent has a rational and factual understanding to enter a plea
16 of guilty or participate in a fact-finding hearing on the charges contained in the
17 delinquency petition. In rendering a determination of competency, the court shall
18 consider such remedial measures that may be reasonably available during a fact-finding
19 hearing in order to aid the respondent in understanding the proceedings and in otherwise
20 participating competently in his defense.

21 “(3) If a motion to transfer has been filed pursuant to D.C. Official Code § 16-
22 2307, the determination of competency shall be made consistent with the procedures and
23 requirements of this section, except that the court's findings shall be made on the basis of

1 whether respondent is competent to participate in the pending transfer hearing only. The
2 issue of respondent's competence to enter a plea or stand trial in a criminal proceeding
3 following respondent's transfer to the Criminal Division of the Superior Court, must be
4 raised at such time that the Criminal Division asserts jurisdiction, in accordance with the
5 applicable statutes and rules governing criminal proceedings.

6 “(e) Treatment and Training Services to Attain Competency.

7 “(1) Upon finding pursuant to subsection (d)(2) or (d)(3) that respondent is
8 incompetent, the court shall order that the respondent receive such treatment and training
9 services as the court determines is appropriate to attain competency. The court may
10 appoint a *guardian ad litem* to assist respondent in attaining competency. The *guardian*
11 *ad litem* shall be an attorney who represents the best interest of respondent and may not
12 be a member of the same law firm or legal organization as counsel for the respondent.

13 “(2) Treatment and training services to attain competency shall be provided to
14 respondent on an outpatient basis, except that the court may order the treatment and
15 training services be conducted on an inpatient basis if respondent has been ordered
16 detained pursuant to D.C. Official Code § 16-2310, or if the court finds that
17 hospitalization of the respondent for treatment and training services to attain competency
18 is necessary.

19 “(3) If an order for inpatient treatment and training services is made, the court
20 may order the respondent sent to a hospital or mental health facility or unit designated by
21 the Mayor as appropriate for treatment of juveniles alleged delinquent, or, if respondent
22 has been detained, the court may order the treatment and training services be performed
23 at a detention facility designated under D.C. Official Code § 16-2313(b)(3). The

1 respondent shall be hospitalized or detained for such time as necessary to provide
2 adequate treatment and training services for respondent, subject to the limitations of
3 subsection (f) of this section. If a motion to transfer has been filed pursuant to D.C.
4 Official Code § 16-2307, the court may order respondent transferred to a hospital or
5 mental health facility or unit designated by the Mayor for the treatment of adults, on or
6 following respondent's eighteenth birthday, if such hospital, facility or unit can segregate
7 respondent from adults.

8 “(4) An order for treatment and training services under this subsection shall
9 include:

10 “(A) a copy of the petition;

11 “(B) the names and addresses of the attorney for the District of Columbia and the
12 attorney for the respondent;

13 “(C) a summary of the reasons for the treatment, including the basis for the
14 finding of incompetency and concerns to be addressed to attain competency;

15 “(D) a copy of all competency evaluations; and

16 “(E) a copy of all other mental health and educational records relied upon by the
17 court or by professionals who conducted the competency evaluations, in determining
18 respondent's incompetency.

19 “(5) The Department of Mental Health shall be responsible for implementation
20 and oversight of an order for treatment and training services under this subsection, except
21 if the finding of incompetency is based primarily upon respondent's mental retardation or
22 developmental disabilities, the Mental Retardation and Developmental Disabilities
23 Administration shall be responsible for implementation and oversight of an order for

1 treatment and training services under this subsection. Within 20 days of entry of the
2 order, the Department of Mental Health or the Mental Retardation and Developmental
3 Disabilities Administration, whichever is applicable, shall name a qualified psychiatrist
4 or psychologist responsible for the respondent's competency treatment and training.

5 Where the Department of Mental Health or the Mental Retardation and Developmental
6 Disabilities Administration has reason to believe that the respondent is dually diagnosed
7 with mental illness and mental retardation or a mental disorder and mental retardation,
8 then the Department of Mental Health and the Mental Retardation and Developmental
9 Disabilities Administration shall collaborate in assessing the respondent and jointly
10 provide treatment and training services for the respondent under this subsection.

11 “(f) Limitation on Time Period for Treatment and Training Services

12 “(1) The respondent shall be ordered to participate in treatment and training
13 under this Section for such time as may be necessary to attain competency, but not to
14 exceed respondent's twenty-first birthday.

15 “(2) The Department of Mental Health or the Mental Retardation and
16 Developmental Disabilities Administration, whichever is responsible for implementation
17 and oversight of the order under subsection (e)(5), shall ensure that a report is prepared
18 and submitted to the court and attorneys of record every six months, or at such shorter
19 intervals as ordered by the court, from the date the order for treatment and services is
20 issued. The report shall contain information regarding the respondent's progress toward
21 attaining competency, the treatment and services being provided, and any
22 recommendations regarding changes to the treatment or services that would be likely to
23 aid in achieving the goal of the order.

1 “(3) If, at any time after the respondent is ordered to undergo treatment or training
2 services, the psychiatrist or psychologist responsible for the treatment and training
3 believes the respondent is competent, the psychiatrist or psychologist shall immediately
4 send a report to the court and attorneys of record. The report shall contain the basis for
5 the conclusion that respondent has attained competency, specifically addressing the
6 concerns raised by the court in its order under subsection (e)(4) of this section.

7 “(4) A report finding respondent competent under this subsection shall be
8 sufficient for the court to enter a finding of competency unless challenged by either party.
9 If the finding of competency under this subsection is challenged, further determination of
10 respondent’s competency shall be made consistent with subsections (c) and (d) of this
11 section. If respondent is then found to remain incompetent, a further order for treatment
12 and services shall be entered under subsections (e) and (f) of this section. If respondent is
13 found competent, delinquency proceedings under this chapter shall resume forthwith.

14 “(g) Discharge Prior to Respondent’s Twenty-First Birthday.

15 “(1) If, at any time after the respondent is ordered to undergo treatment or
16 training services, the psychiatrist or psychologist responsible for the treatment and
17 training believes the respondent will not become competent to proceed prior to his
18 twenty-first birthday, or no later than 90 days prior to the respondent’s twenty-first
19 birthday, the Department of Mental Health or the Mental Retardation and Developmental
20 Disabilities Administration, whichever is responsible for implementation and oversight of
21 the order under subsection (e)(5), shall develop a proposed discharge plan for the
22 respondent.

1 “(2) The proposed discharge plan, along with the written opinion of the treating
2 psychiatrist or psychologist stating that the respondent will not become competent prior
3 to his twenty-first birthday, shall be provided to the court and the attorneys of record.

4 “(3) Within a reasonable period after receipt of the proposed discharge plan and
5 opinion, the court shall, if challenged by either party, convene a hearing to determine
6 whether the respondent will become competent to proceed prior to his twenty-first
7 birthday. If the court determines, by a preponderance of the evidence, that respondent
8 will not become competent to proceed prior to his twenty-first birthday, the court shall
9 issue a discharge order.

10 “(4) Upon entry of a discharge order under this subsection, the Department of
11 Mental Health or the Mental Retardation and Developmental Disabilities Administration,
12 whichever is applicable, shall implement the discharge plan and the Corporation Counsel
13 shall consider whether to petition for respondent’s civil commitment under Title 7 or
14 Title 21 of the District of Columbia Code.

15 “(5) If held at a facility or unit pursuant to subsection (e)(3) of this section,
16 respondent must be released no later than 30 days after entry of the discharge order, but
17 in no instance later than respondent’s twenty-first birthday.

18 “(6) The petition alleging delinquency shall be dismissed 30 days after entry of
19 the discharge order, but in no instance later than respondent’s twenty-first birthday

20 “(h) Inapplicable to persons in need of supervision.

21 The requirement of competency is inapplicable to juveniles charged as persons in need of
22 supervision.”.

23 Sec. 204. Sections 927 (a) and (b) of An Act to establish a Code of Law for the

1 District of Columbia, as amended, approved March 3, 1901 (31 Stat. 1340, ch. 854; D.C.
2 Official Code § 24-501 (a) and (b)) are amended as follows:

3 “(a) If it appears to a court having jurisdiction of a person arrested, or indicted
4 for, or charged by information with, an offense that, from the court’s own observations or
5 from prima facie evidence submitted to it and prior to the imposition of sentence, or the
6 expiration of any period of probation, as the case may be, such person (hereafter in this
7 subsection and subsection (b) referred to as the “accused”) is of unsound mind or is
8 mentally incompetent so as to be unable to understand the proceedings against him or
9 properly to assist in his own defense, the court may order the accused committed to a
10 hospital of the District of Columbia government or other mental hospital designated by
11 the court, for such reasonable period as the court may determine for examination and
12 observation and for care and treatment if such is necessary by the psychiatric staff of said
13 hospital. If after such examination and observation, the superintendent of the hospital, in
14 the case of a mental hospital, or the chief psychiatrist of the District of Columbia
15 government hospital, shall report that in his opinion the accused is of unsound mind or
16 mentally incompetent, such report shall be sufficient to authorize the court to commit by
17 order the accused to a hospital for the mentally ill unless the accused or the government
18 objects, in which event the court, after hearing without a jury, shall make a judicial
19 determination of the competency of the accused to stand trial. If the court shall find the
20 accused to be then of unsound mind or mentally incompetent to stand trial, the court shall
21 order the accused confined to a hospital for the mentally ill.

22 “(b) Whenever an accused person confined to a hospital for the mentally ill is
23 restored to mental competency in the opinion of the superintendent of said hospital, the

1 superintendent shall certify such fact to the clerk of the court in which the indictment,
2 information, or charge against the accused is pending and such certification shall be
3 sufficient to authorize the court to enter an order thereon adjudicating him to be
4 competent to stand trial, unless the accused or the government objects, in which event,
5 the court, after hearing without a jury, shall make a judicial determination of the
6 competency of the accused to stand trial.”.

7 Sec. 205. Fiscal impact statement.

8 The Council adopts the fiscal impact statement in the committee report as the
9 fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home
10 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)
11 (3)).

12 TITLE III – Confidentiality of Juvenile Records.

13 Sec. 301. Short title.

14 This title may be cited as the “Confidentiality of Juvenile Records Act of 2003”.

15 Sec. 302. Chapter 23 of Title 16 of the D.C. Official Code is amended as follows:

16 (a) Section 16-2331(b) is amended as follows:

17 (1) By adding a new § 16-2331(b)(3A) to read as follows:

18 “(3A) at the discretion of the Corporation Counsel, each witness, victim, or the
19 immediate family members or caretakers of each witness or victim if the witness or
20 victim is a child or is deceased or incapacitated, when the information relates to the
21 placement of respondent, conditions of respondent’s release, the offenses charged in the
22 petition, the terms of any diversion program, plea agreement, any findings, verdicts or
23 decrees related to the adjudication of the case, or the terms of any order of disposition, or

1 post-dispositional order that modifies the disposition order, unless the release of such
2 information is otherwise prohibited by law;”.

3 (2) By amending § 16-2331(b)(4) to read as follows:

4 “(4) any court or its probation staff in which respondent is charged or convicted as
5 a respondent in a delinquency matter, or status offense, or as a defendant in a criminal
6 offense, and counsel for the respondent or defendant in that case;”

7 (3) By amending § 16-2331(b)(6) to read as follows:

8 “(6) the United States Attorney for the District of Columbia, his assistants, and
9 any other prosecuting attorneys when necessary for the discharge of their official duties;”

10 (4) By amending § 16-2331(b)(9) to read as follows:

11 “(9) the Mayor’s Family Court Liaison, and the other agencies which participate
12 in the delivery of services to individuals and families under the jurisdiction of the Family
13 Court, for the purpose of carrying out their official duties;”

14 (5) By adding a new § 16-2331(b)(9A) to read as follows:

15 “(9A) the Children’s Advocacy Center and the public and private agencies and
16 institutions that are members of the multidisciplinary investigation team (MDT), for
17 purposes of carrying out their official duties;”

18 (6) By amending § 16-2331(b)(10) by striking the period and inserting
19 “;and” in lieu thereof;

20 (7) By adding a new § 16-2331(b)(11) to read as follows:

21 “(11) any law enforcement personnel when necessary for the discharge of their
22 official duties. This shall include, but not be limited to, enforcing stay-away, release, and

1 disposition orders, aiding in delinquency or criminal investigations, and assisting in
2 enforcement of custody orders.”

3 (b) Section 16-2332(b) is amended as follows:

4 (1) By amending § 16-2332(b)(7) by striking the period and inserting
5 “;and” in lieu thereof;

6 (2) By adding a new § 16-2332(b)(8) to read as follows:

7 “(8) the Mayor’s Family Court Liaison, and the other agencies which participate
8 in the delivery of services to individuals and families under the jurisdiction of the Family
9 Court, for the purpose of carrying out their official duties;”

10 (3) By adding a new § 16-2332(b)(9) to read as follows:

11 “(9) the Children’s Advocacy Center and the public and private agencies and
12 institutions that are members of the multidisciplinary investigation team (MDT), for
13 purposes of carrying out their official duties; and”; and

14 (4) By adding a new § 16-2332(b)(10) to read as follows:

15 “(10) any law enforcement personnel when necessary for the discharge of their
16 official duties. This shall include, but not be limited to, enforcing stay-away, release,
17 and disposition orders, aiding in delinquency or criminal investigations, and assisting
18 in enforcement of custody orders.”

19 (c) Section 16-2333(b) is amended as follows:

20 (1) By adding a new § 16-2333(b)(4A) to read as follows:

21 “(4A) the United States Attorney for the District of Columbia, his assistants, and
22 any other prosecuting attorneys when necessary for the discharge of their official duties;”

23 (2) By amending § 16-2333(b)(5) to read as follows:

1 “(5) any court or its probation staff in which respondent is charged or convicted as
2 a respondent in a delinquency matter, or status offense, or as a defendant in a criminal
3 offense, and counsel for the respondent or defendant in that case;”

4 (3) By amending § 16-2333(b)(9) by striking the period and inserting
5 “;and” in lieu thereof; and

6 (4) By adding a new § 16-2333(b)(10) to read as follows:

7 “(10) the Mayor’s Family Court Liaison, and the other agencies which participate
8 in the delivery of services to individuals and families under the jurisdiction of the Family
9 Court, for the purpose of carrying out their official duties;”

10 (5) By adding a new § 16-2333(b)(11) to read as follows:

11 “(11) the Children’s Advocacy Center and the public and private agencies and
12 institutions that are members of the multidisciplinary investigation team (MDT), for
13 purposes of carrying out their official duties; and”

14 (6) By adding a new § 16-2333(b)(12) to read as follows:

15 “(12) each witness, victim, or the immediate family members or caretakers of the
16 witness or victim if the witness or victim is a child or is deceased or incapacitated,
17 when the records relate to the incident in which they were a witness or victim.”

18 Sec. 303. The Council adopts the fiscal impact statement in the committee report
19 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
20 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
21 206.02(c)(3)).

1 Title IV – Transfer of Violent Juvenile Offenders.

2 Sec. 401. Short title.

3 This title may be cited as the “Violent Juvenile Offenders Transfer Act of 2003”.

4 Sec. 402. D.C. Official Code § 16-2301(3)(A)(i) is amended by inserting at the
5 end the phrase “, or assault with intent to kill,”.

6 Sec. 403. D.C. Official Code § 16-2307 is amended as follows:

7 (a) Section (d) is amended to read as follows:

8 “(d) Unless a commitment order under D.C. Official Code § 16-2315.01(e) has
9 intervened, the Division shall conduct a hearing on each transfer motion to determine
10 whether to transfer the child for criminal prosecution. This hearing shall commence not
11 later than thirty (30) days of the filing of the transfer motion. Upon motion of respondent
12 or the Corporation Counsel, for good cause shown, the hearing may be continued for an
13 additional period not to exceed thirty (30) days. Under no circumstances may the hearing
14 on the motion to transfer commence more than sixty (60) days of the filing of the motion.
15 The Division shall order the transfer if it determines that it is in the interest of the public
16 welfare and protection of the public security and there are no reasonable prospects for
17 rehabilitation. A statement of the Division’s reasons for ordering the transfer shall
18 accompany the transfer order. The Division’s findings with respect to each of the factors
19 set forth in subsection (e) of this section relating to the public welfare and protection of
20 the public security shall be included in the statement. This statement shall be available
21 upon request to any court in which the transfer is challenged, but shall not be available to
22 the trier of fact of the criminal charge prior to verdict.”;

23 (b) Section (e)(4) is amended by striking the word “past”;

1 (c) Subsection (e-2) is amended to read as follows:

2 “There is a rebuttable presumption that a child 15 through 18 years of age
3 who has been charged with any of the following offenses, should be transferred for
4 criminal prosecution in the interest of public welfare and the protection of the public
5 security, and because there are no reasonable prospects for rehabilitation:”

6 (d) Subsection (e-2) is further amended by striking paragraphs (1) and (2).

7 (e) A new subsection (e-3) is added to read as follows:

8 “(e-3) A child 15 through 18 years of age who has been charged with any of the
9 following offenses, shall be required to establish by a preponderance of the evidence that
10 he should not be transferred for criminal prosecution in the interest of public welfare and
11 the protection of the public security, and because there are no reasonable prospects for
12 rehabilitation:

13 “(1) Murder, first degree sexual abuse, burglary in the first degree,
14 robbery while armed, carjacking while armed, assault with intent to commit any such
15 offense, or assault with intent to kill; or

16 “(2) Any offense listed in paragraph (1) of this subsection and any other
17 offense properly joinable with such an offense.”

18 “(3) Any offense listed in subsection (e-2) of this section that is a part of
19 continuing criminal activity in concert with one or more persons, and the circumstances
20 of the offense show that the child has knowingly devoted himself or herself to criminal
21 activity.”

22 (f) A new section (i) is added to read as follows:

1 **“(i) Notwithstanding subsection (d) of this section, the judicial decision**
2 **whether to transfer the child shall be made within one year of the filing of the**
3 **motion requesting transfer of the child for criminal prosecution. For good cause**
4 **shown, the Division may extend the time in which to issue its decision.”.**

5 Sec. 404. Fiscal Impact Statement.

6 The Council adopts the fiscal impact statement in the committee report as the
7 fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home
8 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)
9 (3)).

10 TITLE V – Corporation Counsel Subpoena Authority

11 Sec. 501. Short title.

12 This title may be cited as the “Corporation Counsel Subpoena Authority Act of
13 2003”.

14 Sec. 502. Scope of Corporation Counsel Subpoena Authority.

15 The Corporation Counsel, or any designated Assistant Corporation Counsel, may
16 issue subpoenas and take testimony under oath in furtherance of the following criminal or
17 delinquency investigations or prosecutions:
18

19 (a) Any delinquent act as defined in D.C. Official Code § 16-2301(7) that would
20 constitute a felony offense if an adult had committed it or any intrafamilial offense as
21 defined in D.C. Official Code § 16-1001(5) that would constitute a misdemeanor if an
22 adult had committed it; and

23 (b) Any criminal offense that is prosecuted by the Office of the Corporation
24 Counsel where the penalty may exceed thirty days imprisonment.

1 Sec. 503. Issuance of a subpoena and examination under oath.

2 (a) The subpoena issued under section 502 may require any person to appear and
3 be examined under oath and/or to produce any books, papers, documents, or other objects
4 designated therein or any other record however maintained, including those electronically
5 stored, that are relevant or material to the investigation or prosecution.

6 (b) Witnesses, other than those employed by the District of Columbia, summoned
7 under subsection (a) of this section shall be paid the same fees and mileage that witnesses
8 are paid in the Superior Court of the District of Columbia, but the fees need not be
9 tendered to the witnesses before they appear and are examined under oath or produce
10 books, records, papers, documents or other objects.

11 (c) A subpoena issued under subsection (a):

12 (1) Shall state that the Office of the Corporation Counsel is the issuing
13 authority and shall command each person to whom it is directed to attend and give
14 testimony and/or to produce any books, papers, documents, or other objects
15 designated therein or any other record however maintained, including those
16 electronically stored, that are relevant or material to the investigation at the time and
17 place specified therein;

18 (2) May be served by any person who is not less than 18 years; and

19 (3) Shall contain a short, plain statement of the recipient's rights and the
20 procedure for enforcing and contesting the subpoena.

21 (d) The Corporation Counsel, or any designated Assistant Corporation Counsel,
22 may administer oaths to witnesses summoned in any investigation under subsection (a) of
23 this section.

1 (e) The Corporation Counsel, or any designated Assistant Corporation Counsel,
2 shall cause the testimony of the witness to be recorded stenographically or by an
3 electronic recording device, unless the attorney issuing the subpoena and the witness
4 agree in writing not to do so. If the testimony is transcribed, the Corporation Counsel, or
5 any designated Assistant Corporation Counsel, shall afford the witness a reasonable
6 opportunity to examine the transcript or, if the witness cannot read, it shall be read to him
7 or her, unless the witness waives the examination or reading. Any typographical or
8 stenographical errors which the witness desires to correct shall be entered and identified
9 upon an errata sheet to be attached to the transcript. The transcript shall then be signed
10 by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or
11 refuses to read or have the transcript read to him or her, or if he or she refuses to sign the
12 transcript. If the transcript is not signed by the witness within 15 days of the witness
13 being afforded a reasonable opportunity to examine the transcript, the Corporation
14 Counsel, or any designated Assistant Corporation Counsel, shall sign the transcript and
15 state on the record the fact of the waiver, illness, absence of the witness, or the refusal to
16 sign, together with the reason, if any, given therefore.

17 (f) Only attorneys for the government and their staff, other people involved in the
18 investigation, the witness under examination, his or her attorney, interpreters when
19 needed and, for the purpose of taking the evidence, a stenographer or operator of a
20 recording device may be present during the taking of the testimony.

21 Sec. 504. General Rule of Secrecy.

22 (a) Except as provided by § 504(b), attorneys for the government and their staff,
23 the witness under examination and his or her attorney, interpreters when needed, any

1 person to whom disclosure is made under § 504(b) and, for the purpose of taking the
2 evidence, a stenographer or operator of a recording device and a typist who transcribes
3 recorded testimony, shall not disclose any testimony taken pursuant to a subpoena issued
4 pursuant to this act.

5 (b) Notwithstanding § 504(a), testimony taken pursuant to a subpoena issued
6 under this act may be disclosed:

7 (1) to attorneys for the government for use in the performance of their
8 duties;

9 (2) to other government personnel (including personnel of the federal
10 government or of a state or subdivision of a state) as are deemed necessary by an attorney
11 for the government to assist that attorney in the performance of such attorney's duty to
12 enforce District of Columbia law;

13 (3) at a hearing pursuant to a court rule implementing the Jencks Act, 18
14 U.S.C. § 3500;

15 (4) when so directed by an order of a court within the District of Columbia
16 preliminarily to, or in connection with, a judicial proceeding;

17 (5) when the disclosure is made by an attorney for the government to a
18 grand jury in the District of Columbia.

19 (c) Any person to whom matters are disclosed under § 504(b)(2) shall not utilize
20 the testimony procured through the issuance of a subpoena under this act for any purpose
21 other than assisting the attorney for the government in the performance of such attorney's
22 duty to enforce District of Columbia law.

23 Sec. 505. Witnesses' Rights.

1 (a) At the time that the subpoena is served, the person serving the subpoena shall
2 advise the subpoenaed individual of his or her right to be accompanied by counsel as
3 provided by subsection (c) of this section.

4 (b) The Superior Court of the District of Columbia may quash or modify the
5 subpoena if compliance would be unreasonable or oppressive or violate any privilege the
6 witness may be entitled to exercise in a court proceeding.

7 (c) Any person compelled to appear by subpoena may be accompanied,
8 represented, and advised by counsel. The person served with the subpoena, or his or her
9 counsel, may object on the record to any question, in whole or in part and shall briefly
10 state for the record the reason for the objection. An objection may properly be made,
11 received, and entered upon the record only when a claim is made that such person is
12 entitled to refuse to answer the question on grounds of any constitutional or other legal
13 privilege, including the privilege against self-incrimination. Such person shall not
14 otherwise object to or refuse to answer any question, and shall not him or herself, or
15 through counsel, otherwise interrupt the oral examination. Counsel may not talk to a
16 witness while a question is pending. If such person refuses to answer any question, the
17 Corporation Counsel, or any designated Assistant Corporation Counsel, may petition the
18 Superior Court of the District of Columbia pursuant to this section for an order
19 compelling such person to answer such question. If such person refuses to answer any
20 question on the grounds of privilege against self-incrimination, the testimony of such
21 person may be compelled by order of court upon the granting of immunity by the
22 appropriate prosecuting authority.

23 Sec. 506. Penalties.

1 (a) If any witness having been personally summoned shall neglect or refuse to
2 obey the subpoena, the Corporation Counsel, or any designated Assistant Corporation
3 Counsel, may report that fact to the Superior Court of the District of Columbia and
4 provide a copy of the subpoena and proof of service. The court shall conduct a hearing
5 and may grant appropriate relief after providing the person who allegedly failed to
6 comply with a subpoena an opportunity to be heard and be represented by counsel. The
7 Superior Court may compel obedience to the subpoena to the same extent as witnesses
8 may be compelled to obey the subpoenas of that court.

9 (b) Any willful false swearing on the part of any witness testifying about a
10 material fact pursuant to a subpoena issued under this act shall be deemed perjury and
11 shall be subject to prosecution under District of Columbia law by the Corporation
12 Counsel in the name of the District of Columbia.

13 (c) Any person who knowingly violates any provision of § 504 shall be guilty of a
14 misdemeanor and, upon conviction thereof, shall be fined not more than \$250 or
15 imprisoned not more than ninety days, or both. Violations of this subsection shall be
16 prosecuted by the Corporation Counsel in the name of the District of Columbia.

17 Sec. 507. Fiscal impact statement.

18 The Council adopts the fiscal impact statement in the committee report as the
19 fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home
20 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)
21 (3)).

22

1 TITLE VI – Juvenile Disposition.

2 Sec. 601. Short title.

3 This title may be cited as the “Juvenile Disposition Act of 2003”.

4 Sec. 602. D.C. Official Code § 16-2309 is amended by adding the following new
5 paragraph (9) to read as follows:

6 “(9) by a law enforcement officer when the officer has reasonable grounds to
7 believe that the child has violated a court order.”

8 Sec. 603. D.C. Official Code § 16-2317(c) is amended by striking the last
9 sentence that reads “In the absence of evidence to the contrary, a finding of the
10 commission of an act which would constitute a criminal offense if committed by an adult
11 is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need
12 of supervision cases.”, and inserting in its place the following sentence to read as follows:
13 “There shall be a rebuttable presumption that a finding of the commission of an act which
14 would constitute a criminal offense if committed by an adult is sufficient to sustain a
15 finding of need for care or rehabilitation in delinquency and need of supervision cases.”

16 Sec. 604. D.C. Official Code § 16-2317(d) is amended as follows:

17 “(d)(1) Determinations of whether a child is in need of care or rehabilitation may
18 only be made at the dispositional hearing.

19 “(d)(2) In order to overcome the presumption of a need for care or rehabilitation
20 in subsection (c), the Division must find by clear and convincing evidence at the
21 dispositional hearing that the child is not in need of care or rehabilitation before it may
22 terminate proceedings.

1 “(d)(3) The fact that a child is receiving care or rehabilitation in another case shall
2 not be the only grounds for dismissal.”

3 Sec. 605. D.C. Official Code § 16-2322(c) is amended by inserting the phrase “or
4 Corporation Counsel” after “Director of Social Services”.

5 Sec. 606. Fiscal impact statement.

6 The Council adopts the fiscal impact statement in the committee report as the
7 fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home
8 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)
9 (3)).

10 TITLE VII - Juvenile Failure to Appear.

11 Sec. 701. Short title.

12 This title may be cited as the “Juvenile Failure to Appear Offense Act of 2003”.

13 Sec. 702. Chapter 23 of Title 16 of the D.C. Official Code is amended by adding
14 a new section 16-2316.02 entitled “Offense for Failure to Appear at Hearings” to read as
15 follows:

16 “**§ 16-2316.02 Offense for Failure to Appear at Hearings.**

17 “(a) Any child who was released pursuant to D.C. Official Code § 16-2311, § 16-
18 2312, or pursuant to any other authority by the Division or the Director of Social Services
19 in a delinquency matter, and who willfully fails to appear before any court or judicial
20 officer as required shall have committed a delinquent act.

21 “(b) Any failure to appear after notice of the appearance date shall be prima facie
22 evidence that such failure to appear is willful. Whether the person was warned when
23 released of the penalties for failure to appear shall be a factor in determining whether

1 such failure to appear was willful, but the giving of such warning shall not be a
2 prerequisite to conviction under this section.

3 “(c) The Division may find that the allegation that the child willfully failed to
4 appear before a court or judicial officer has been established by proof beyond a
5 reasonable doubt under this section even if the respondent has not received actual notice
6 of the appearance date if actual notice is served upon the child’s parent or guardian.

7 “(d) A finding of the commission of willful failure to appear for a delinquency
8 hearing shall sustain a finding of need for care or rehabilitation for both the failure to
9 appear and underlying offenses.

10 Sec. 703. Applicability. This title shall apply to any child who willfully fails to
11 appear before any court or judicial officer after the effective date of this act.

12 Sec. 704. The Council adopts the fiscal impact statement in the committee report
13 as the fiscal impact statement required by section 602 (c)(3) of the District of Columbia
14 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
15 206.02 (c) (3)).

16 TITLE VIII - Victims of Juvenile Offenders Bill of Rights and Delinquency
17 Accountability.

18 Sec. 801. Short title.

19 This title may be cited as the “Victims of Juvenile Offenders Bill of Rights and
20 Delinquency Accountability Amendment Act of 2003”.

21 Sec. 802. The table of contents for Chapter 23 of Title 16 of the D.C. Official
22 Code is amended as follows:

23 (a) The Table of Contents is amended by adding:

1 (1) The phrase “16-2320.1. Restitution.” after the phrase “16-2320.
2 Disposition of child who is neglected, delinquent, or in need of supervision.”;

3 (2) The phrase “16-2340. Treatment of victim or witness of delinquent
4 acts; rights of victims or witnesses in delinquency proceedings; privacy and security of
5 victims or witnesses in delinquency proceedings” after the phrase “16-2339. Immunity
6 for juveniles who are witnesses in juvenile proceedings.”.

7 (b) D.C. Official Code § 16-2315(a) is amended to add a paragraph number (1)
8 and to read as follows:

9 “(1) At any time following the filing of a petition, or upon the Division
10 granting a continuance for the filing of the petition under section 16-2312 (g), on motion
11 of the Corporation Counsel or counsel or counsel for the child, or on its own motion, the
12 Division may order a child to be examined to aid in determining his or her physical or
13 mental condition.

14 “(2) Upon request of the Corporation Counsel, or his or her designee, the
15 Division shall hold a hearing to determine whether there is probable cause to believe that
16 a victim or witness to a crime may have been put at risk for the HIV/AIDS virus. The
17 results of the child’s HIV/AIDS testing shall be presented to the Corporation Counsel or
18 his or her designee who shall provide the information to the respondent and victim or
19 witness to a crime. The victim or witness may only disclose the respondent’s identity to
20 a doctor or counselor.”.

21 (c) D.C. Official Code § 16-2316(e) is amended to read as follows:

22 “(e) All hearings and proceedings under this subchapter shall be recorded by
23 appropriate means. Except in hearing to declare a person in contempt of court, the

1 general public shall be excluded from hearings arising under this subchapter. Only
2 persons necessary to the proceedings shall be admitted, but the Division may, pursuant to
3 rule of the Superior Court, admit such other persons (including members of the press) as
4 have a proper interest in the case or the work of the court on condition that they refrain
5 from divulging information identifying the child or members of his or her family
6 involved in the proceedings. The witness' and victims' immediate family members or
7 caretakers shall have the right to be present during the victims' or witness' testimony at a
8 factfinding hearing. The witness and victim, and the immediate family members or
9 caretakers of the witness and victim, shall have the right to attend all disposition and
10 post-disposition hearings. Any person who by virtue of this subsection attends a
11 factfinding, disposition, or post-disposition hearing shall be bound by the confidentiality
12 requirements of D.C. Official Code §§ 16-2331, 16-2332, and 16-2333.”.

13 (d) D.C. Official Code § 16-2317 is amended as follows:

14 (1) By inserting the following two new sentences at the end of subsection (c): “In
15 determining whether a child is in need of care and rehabilitation the Division shall
16 consider any victim impact statement submitted by Corporation Counsel and shall hear
17 from any witnesses or victims, or the family of any witnesses or victims when the
18 witness or victim is a child or when the witness or victim is deceased or incapacitated.
19 In determining if a child is in need of care or rehabilitation, the Division shall consider if
20 the dismissal of the case is in the interest of the public welfare and the protection of the
21 public security.”.

22 (2) By adding a new subsection (f) to read as follows:

1 “(f) The Corporation Counsel shall give prompt notice, if practicable, of any
2 disposition and post-disposition hearings to the victim(s), or the family of the victim(s)
3 when the victim is a child or when the victim is deceased or incapacitated.”.

4 (e) D.C. Official Code § 16-2319 (a) is amended to read as follows:

5 “(a) After a motion or transfer has been filed, or after the Division has made
6 findings pursuant to subsection (c) of section 16-2317 sustaining the allegations of a
7 petition and, in neglect cases, the conclusion that the child is neglected, the Division shall
8 direct that a predisposition study and report to the Division be made by the Director of
9 Social Services or a qualified agency designated by the Division concerning the child, his
10 or her family, his or her environment, and other matters relevant to the need for treatment
11 or disposition of the case. The predisposition report shall include, and take into
12 consideration, any victim impact statement submitted by Corporation Counsel. Except in
13 connection with a hearing on a transfer motion, no predisposition study or report shall be
14 furnished to or considered by the Division prior to completion of the factfinding
15 hearing.”.

16 (f) D.C. Official Code § 16-2320 is amended by adding a new subsection (c-2) to
17 read as follows:

18 “(c-2) When determining what disposition shall be ordered under subsection (c),
19 the Division shall consider any victim impact statement submitted by Corporation
20 Counsel and shall hear from the victim(s), or the family of the victim(s) when the victim
21 is a child or when the victim is deceased or incapacitated.”.

22 (g) A new § 16-2320.1 is added to read as follows:

23 “§ 16-2320.1. Restitution.

1 “(a)(1) The Division may enter a judgment of restitution in any case in which the
2 court finds a child has committed a delinquent act and during or as a result of the
3 commission of that delinquent act has:

4 “(A) Stolen, damaged, destroyed, converted, unlawfully obtained, or
5 substantially decreased the value of the property of another;

6 “(B) Inflicted personal injury on another, requiring the injured person to
7 incur medical, dental, hospital, loss wages, funeral, or burial expenses; or

8 “(C) Caused the victim of the delinquent act to incur reasonable
9 counseling or other mental health expenses from a licensed health care provider if the
10 delinquent act involved personal injury, child or sexual abuse, robbery or burglary.

11 “(2) The Division may order the parent or guardian of a child, a child, or both to
12 make restitution to:

13 “(A) The victim;

14 “(B) Any governmental entity;

15 “(C) A third party payor, including an insurer, that has made
16 payment to the victim to compensate the victim for a property loss under paragraph
17 (1)(A) of this subsection or pecuniary loss under paragraph (1)(B) or (C) of this
18 subsection

19 “(3) (A) Restitution payments to the victim have priority over restitution
20 payments to a third party payor.

21 “(B) Payment of restitution to a victim under this section has
22 priority over payment of restitution to any governmental entity.

1 “(4) If the victim has been compensated for the victim's loss by a third
2 party payor, the Division may order restitution payments to the third party payor in the
3 amount that the third party payor compensated the victim.

4 “(b) The Division may order the child to make restitution directly to the victim,
5 governmental entity, or third party payor after consideration of the age, circumstances,
6 and financial ability of the child to pay. The Division may order the parent or guardian to
7 make restitution directly to the victim, governmental entity, or third party pay or after
8 consideration of the parent or guardian’s financial ability to pay.

9 “(c)(1) A judgment rendered under this section may not exceed:

10 “(A) As to property stolen, destroyed, converted, or unlawfully
11 obtained, the lesser of the fair market value of the property or \$10,000;

12 “(B) As to property damaged, or substantially decreased in value,
13 the lesser of the amount of damage or the decrease in value of the property, not to exceed
14 the fair market value of the property, or \$10,000;

15 “(C) As to personal injuries inflicted, the lesser of the actual
16 medical, dental, hospital, funeral, and burial expenses incurred by the injured person as a
17 result of the injury or \$10,000.

18 “(D) As to counseling or mental health expenses, the lesser of the
19 actual expenses incurred by the injured person as a result of the incident or \$10,000.

20 “(2) As an absolute limit in each case against any one child, his or her parents or
21 guardians, or both, a judgment rendered under this section may not exceed \$10,000 for all
22 acts arising out of a single incident.

1 “(d) A restitution hearing to determine the liability of a parent or guardian, a
2 child, or both, shall be held not later than 30 days after the disposition hearing and may
3 be extended by the Division for good cause. A hearing under this section may be held as
4 part of a factfinding or disposition hearing for the child. A judgment of restitution
5 against a parent or guardian may not be entered unless the parent or guardian has been
6 afforded a reasonable opportunity to be heard and to present appropriate evidence in the
7 parent or guardian's behalf.

8 “(e) In a restitution hearing, a written statement or bill for medical, dental,
9 hospital, funeral, burial expenses, and repair and replacement of property shall be prima
10 facie evidence that the amount indicated on the written statement or bill represents a fair
11 and reasonable charge for the services or materials provided. The burden of proving that
12 the amount indicated on the written statement or bill is not fair and reasonable shall be on
13 the person challenging the fairness and reasonableness of the amount.

14 “(f) Upon request of the Corporation Counsel or the recipient of a restitution
15 order, the Division may enforce the judgment for restitution under this section in the
16 same manner that a monetary judgment is enforced by the Superior Court under Title 15
17 of the D.C. Official Code and applicable court rules.

18 “(g) The Director of Social Services is responsible for monitoring the collection
19 and disbursement of restitution payments when the restitution order provides that
20 restitution is to be made in periodic or installment payments.

21 “(h) An order of restitution shall not preclude a civil action to recover damages
22 from the child, parent, or guardian. A civil verdict shall be reduced by the amount paid
23 under the restitution order. A restitution order may be filed under seal in any civil case.

1 “(i) If at the restitution hearing the Division finds that a child is financially unable
2 to pay restitution pursuant to subsection (b), the Division may order the child to perform
3 community service or some other non-monetary service of equivalent value in lieu
4 thereof. If at the restitution hearing the Division finds that a parent or guardian is
5 financially unable to pay restitution pursuant to subsection (b), the Division may order
6 the parent or guardian to perform community service or some other non-monetary service
7 of equivalent value in lieu thereof.”.

8 (h) By adding a new § 16-2340 to read as follows:

9 **“§ 16-2340. Treatment of victim or witness of delinquent act; rights of
10 victims or witnesses in delinquency proceedings; privacy and security of victims or
11 witnesses in delinquency proceedings.**

12 “(a) A victim or a witness of a delinquent act should:

13 “(1) Be treated with dignity, respect, courtesy, sensitivity and with respect
14 for the victim’s or witness’ privacy;

15 “(2) Be notified in advance of dates and times of juvenile factfinding
16 hearings, disposition hearings, and post-disposition hearings;

17 “(3) During any phase of the investigative proceedings or court
18 proceedings, be provided, to the extent practicable, a waiting area that is separate from
19 the child alleged to be delinquent and the family and friends of the child alleged to be
20 delinquent;

21 “(4) Be informed by the appropriate juvenile justice agency of financial
22 assistance, criminal injuries compensation, and any other social services available to the
23 victim, and receive assistance or information on how to apply for such programs;

1 “(5) Be advised of the right to have stolen or other property promptly
2 returned and, on written request, have the property promptly returned by law enforcement
3 agencies when means can be employed to otherwise satisfy evidentiary requirements for
4 prosecution, unless there is a compelling law enforcement reason for retaining the stolen
5 property; and

6 “(6) Be informed, in appropriate cases, by the Corporation Counsel of the
7 right to request restitution.

8 “(b) Before, during, and immediately after any court proceeding, the court shall
9 provide appropriate safeguards to minimize the contact that may occur between the
10 respondent, or respondent's family and witnesses for respondent, and the victim,
11 witnesses for the Corporation Counsel, and the family of the victim or the Corporation
12 Counsel’s witnesses.

13 “(c) Except as otherwise mandated by law, the District government shall not be
14 required to disclose the names or addresses of its witnesses prior to a hearing.

15 “(d) The respondent, the respondent's attorney or another person acting on behalf
16 of the respondent shall clearly identify himself or herself as being, representing or acting
17 on behalf of the respondent at the beginning of any contact with the victim, the victim's
18 family, or other persons believed to be witnesses to the offenses charged.

19 “(e) Nothing in this section may be construed as creating a cause of action
20 against the District of Columbia, any public official, employee, or public agency
21 responsible for implementing or carrying out the provisions of this section.”.

22 Sec. 803. The Council adopts the fiscal impact statement in the committee report
23 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia

1 Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-
2 206.02 (c)(3)).

3 TITLE IX – Release of Certain Children in Need of Supervision.

4 Sec. 901. Short Title.

5 This title may be cited as the “Release of Certain Children in Need of Supervision
6 Act of 2003”.

7 Sec. 902. D. C. Official Code 16-2320(d) is amended to read as follows:

8 “No child found in need of supervision, as defined by D.C. Official Code § 16-
9 2301(8), unless also found delinquent, shall be committed to or placed in an institution or
10 facility for delinquent children, but shall be released to the child’s parent, guardian, or
11 custodian, unless the return of the child will result in placement in, or return to, an
12 abusive situation, or the child’s parent, guardian or custodian is unwilling or unable to
13 care for or supervise the child. Notwithstanding the previous sentence, if the child is not
14 released to the child’s parent, guardian, or custodian, and the child has previously been
15 found in need of supervision, the child may be committed to or placed in an institution or
16 facility for delinquent children.”

17 Sec. 903. The Council adopts the fiscal impact statement in the committee report
18 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
19 Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-
20 206.02 (c)(3)).

21 Title X – Periodic Evaluations.

22 Sec. 1001. This title may be cited as the “Periodic Evaluations Act of 2003”.

1 Sec. 1002. D.C. Official Code §16-2323 is amended by adding a new subsection
2 (g) to read as follows:

3 “(g) When a child has been adjudicated delinquent and a dispositional order has
4 been entered by the Division pursuant to D.C. Code § 16-2320 that transfers legal
5 custody of the child to the Youth Services Administration, the Youth Services
6 Administration shall conduct periodic evaluations of the child to:

7 “(1) Determine if rehabilitative progress has been made and if the services
8 provided to the child have been effective;

9 “(2) Determine, in conjunction with the child, the child’s attorney and the
10 Corporation Counsel, what, if any steps should be taken, to ensure the rehabilitation and
11 welfare of the committed child and the safety of the public.”

12 Sec. 1003. The Council adopts the fiscal impact statement in the committee report
13 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
14 Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-
15 206.02 (c)(3)).

16 Title XI – Individualized Treatment Plan.

17 Sec. 1101. This title may be cited as the “Individualized Treatment Plan Act of
18 2003”.

19 Sec. 1102. District of Columbia Official Code § 16-2319 is amended by adding
20 new subsections (d) through (g) to read as follows:

21 “(d) When a child has been adjudicated delinquent and a dispositional order has
22 been entered by the Court under D.C. Official Code §16-2317 and § 16-2320 transferring
23 legal custody of a child to the custody of the Youth Services Administration, the Youth

1 Services Administration shall conduct an evaluation of the child to determine the
2 appropriate services and to develop an individualized treatment plan for the child.

3 “(e) The Youth Services Administration shall examine the child and investigate
4 all pertinent circumstances in the child’s background that will contribute to the
5 development of the treatment plan.

6 “(f) The Youth Services Administration shall complete an initial assessment of
7 the child within fourteen (14) days of taking legal custody of the child and receipt of the
8 social file from the Director of Court Social Services and shall develop the individualized
9 treatment plan within thirty (30) days of completing the initial assessment of the child. If
10 the Youth Services Administration does not receive the social file within seven (7) days
11 of the disposition order, the Division shall order the Director of Court Social Services to
12 immediately produce the social file

13 “(g) The Division may, on its own motion or the motion of any party, for good
14 cause shown, extend the time periods set forth in subsection (f) for completion of the
15 initial assessment and the individualized treatment plan.”

16 Sec. 1103. The Council adopts the fiscal impact statement in the committee report
17 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
18 Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-
19 206.02 (c)(3)).

20 Title XII - Parental Participation and Accountability.

21 Sec. 1201. This title may be cited as the “Parental Participation and
22 Accountability Act of 2003”.

23 Sec. 1202. D.C. Official Code § 16-2325.01 is amended as follows:

1 (a) By striking in subsection (a) the term “may” and inserting the term
2 “shall” in its place.

3 (b) By striking the term “may” in subsection (b) and inserting the term
4 “shall” in its place.

5 (c) By adding at the end of the second sentence in subsection (b) the following
6 new phrase: “, and to submit to drug testing and, if such testing indicates that he or she
7 has engaged in the use of a controlled substance, to participate in a drug treatment
8 program.”.

9 (d) By striking the phrase “an order of participation” in subsection (c) and
10 inserting the phrase “an order issued under this section” in its place.

11 (e) By adding a new subsection (c-1) to read as follows:

12 “A person who willfully fails to comply with an order issued under this section
13 without good cause may be found in criminal contempt of court and fined in an amount
14 not to exceed \$1,000, or be imprisoned for not more than 180 days, or both. Violations
15 of this section shall be prosecuted by the Corporation Counsel.”.

16 (f) By amending subsection (e) by striking the phrase “ failing to appear” and by
17 inserting the phrase “failing to comply with an order issued under this section” in its
18 place.

19 (g) By repealing subsection (f).

20 Sec. 1203. The Council adopts the fiscal impact statement in the committee
21 report as the fiscal impact statement required by section 602(c)(3) of the District of
22 Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official
23 Code § 1-206.02(c)(3)).

1 Title XIII - Effective Date.

2 Sec. 1301. This act shall take effect following approval by the Mayor (or in the
3 event of veto by the Mayor, action by the Council to override the veto), and a 30-day
4 period of Congressional review as provided in section 602 (c) (1) of the District of
5 Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official
6 Code § 1-206 (c) (1)), and publication in the District of Columbia Register.