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2 Chairman Phil Mendelson



Councilmember Kenyan R. McDuffie

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5 Councilmember Anita Bonds


Councilmember David Grosso

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10 Councilmember LaRuby May


Councilmember Brianne Nadeau

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14 Councilmember Elissa Silverman

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16 A BILL
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20 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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24 To amend Title 16 of the District of Columbia Code to allow the Court to make the necessary
25 findings for Special Immigrant Juvenile status until an unmarried individual turns 21, to
26 strengthen the presumption against pre-disposition detention of a child, to ban the pre-
27 disposition detention of status offenders, to end the rebuttable presumption in favor of the
28 detention of children who have committed certain offenses, to transfer individuals under
29 the age of 18 charged as adults to juvenile facilities, to end the commitment of children
30 under the age of 10, to allow the sharing of juvenile information for the purpose of
31 evaluating the efficacy of diversion programs, to end the pretrial detention of Title 16
32 youth in adult facilities, to restrict the use of room confinement of juveniles, to ban the
33 use of disciplinary segregation of juveniles, to better inform the families of committed
34 juveniles about their commitment and the resources available to them, and to limit the use
35 of restraints on confined juveniles, to require better data collection and sharing; to amend
36 the Attorney General for the District of Columbia Clarification and Elected Term
37 Amendment Act to require the establishment of a victim-offender mediation program; to
38 amend An Act To establish a Board of Indeterminate Sentence and Parole for the District
39 of Columbia and to determine its functions, and for other purposes, to eliminate
40 mandatory minimums for juveniles charged as adults and to ban the use of juvenile life
41 without parole; to amend the Department of Youth Rehabilitation Services Establishment
42 Act of 2016 to restrict the use of restraints on juveniles, to require an annual analysis of
43 the root causes of juvenile crime, and to require the agency to collect information
44 regarding the effectiveness of rehabilitation programs from other agencies; to amend
45 Title 13 of the District of Columbia Code to allow for constructive notice when a

46 defendant cannot be found after diligent efforts or who by concealment seeks to avoid the
47 service of process.
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49 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
50 act may be cited as the “Comprehensive Youth Justice Amendment Act of 2016”.
51

52 TITLE I. YOUTH SERVICES AND REHABILITATION ENHANCEMENT.

53 Sec. 101. Short title.

54 This title may be cited as the “Strengthening Youth Services and Rehabilitation
55 Amendment Act of 2016”.

56 Sec. 102. Section 101 of the Department of Youth Rehabilitation Services Establishment
57 Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01), is
58 amended as follows:

59 (a) Paragraph (12) is amended to read as follows:

60 “(12) “Youth” means a “child” as that term is defined by § 16-2301(3) or an
61 individual under the age of 18 transferred pursuant to § 16-2313(d) or § 16-2313(d-1). The terms
62 “juvenile”, “child”, and “resident” appearing in this subchapter are used interchangeably.”.

63 Sec. 103. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as
64 follows:

65 (a) Section 16-2301 is amended as follows:

66 (1) Subsection (3) is amended to read as follows:

67 “(3)(A) The term “child” means an individual who is under 18 years of age,
68 except that the term “child” does not include an individual who is sixteen years of age or older
69 and –

70 “(i) Charged by the United States attorney with (I) murder, first
71 degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to

72 commit any such offense, or (II) an offense listed in clause (I) and any other offense properly
73 joinable with such an offense;

74 “(ii) Charged with an offense referred to in subparagraph (A)(i)(I)
75 and convicted by plea or verdict of a lesser included offense; or

76 “(iii) Charged with a traffic offense.

77 “(B) For purposes of this subchapter, the term “child” also includes:

78 “(i) A person under the age of twenty-one who is charged with an
79 offense referred to in subparagraph (3)(A)(i)(I) or (3)(A)(iii) committed before they attained the
80 age of sixteen, or a delinquent act committed before they attained the age of eighteen; or

81 “(ii) An unmarried person under the age of twenty-one on behalf of
82 whom a motion is filed for Special Immigrant Juvenile factual findings, requesting a
83 determination that the person was abused, neglected, or abandoned for purposes of §
84 101(a)(27)(J) of the Federal Immigration and Nationality Act.”.

85 (2) A new subsection (46) is added to read as follows:

86 “(46) The term “penal institution” shall have the same meaning as provided in
87 section 2(6) of An Act To prohibit the introduction of contraband into the District of Columbia
88 penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-
89 2603.01(6)).”

90 (b) Section 16-2310 is amended as follows:

91 (1) Subsection (a) is amended by striking the phrase “or in need of supervision”.

92 (2) Subsection (a)(1) is amended to read as follows:

93 “(1) to protect the person or property of others or of the child from significant
94 harm, or”.

95 (3) Subsection (a-1) is repealed.

96 (4) Subsection (b) is amended by striking the phrase “unless it appears” and
97 inserting the phrase “unless the child is alleged to be delinquent or in need of supervision and
98 unless it appears” in its place.

99 (c) Section 16-2313 is amended as follows:

100 (1) Subsection (a) is amended by striking the phrase “to be neglected” and
101 inserting the phrase “to be neglected or in need of supervision.”

102 (2) Subsection (b) is amended by striking the phrase “to be in need of supervision
103 or (except as provided in subsection (d) or (e)) is alleged”.

104 (3) Subsection (b)(3) is amended by striking the phrase “or children alleged to be
105 in need of supervision”.

106 (3) Subsection (d) is amended to read as follows:

107 “(d) Beginning October 1, 2018, no individual under 18 years of age may be detained in a
108 penal institution or other facility for the detention of adults. All individuals under the age of 18
109 that are detained in a penal institution or other facility for the detention of adults must be
110 transferred to a detention facility described in subsection (b)(3) prior to October 1, 2018.”.

111 (4) A new subsection (d-1) is added to read as follows:

112 “(d-1) After October 1, 2018, the appropriate official of a penal institution or other
113 facility for the detention of adults shall inform the Superior Court immediately when an
114 individual under the age of 18 years is received at the facility and shall transfer the individual to
115 a detention facility described in subsection (b)(3).”.

116 (5) Subsection (e) is repealed.

117 (d) Subsection (c)(2) of section 16-2320 is amended to read as follows:

118 “(c)(2) Transfer of legal custody to a public agency for the care of delinquent children,
119 except that legal custody shall not be transferred to a public agency for the care of delinquent
120 children when the child in question is less than ten years of age.”.

121 (e) Section 16-2331(c)(4)(B) is amended to read as follows:

122 “(B) Authorized personnel in the Mayor’s Family Court Liaison, the
123 Department of Health, the Department of Behavioral Health, the Child and Family Services
124 Agency, the Department of Human Services, and the Office of the Attorney General for the
125 purpose of:

126 “(i) The delivery of services to individuals under the jurisdiction of
127 the Family Court, or their families; or,

128 “(ii) Monitoring recidivism of and the delivery of services to:

129 “(I) Individuals under the jurisdiction of the Family Court;

130 and

131 “(II) Youth who have been diverted by law enforcement, by
132 the Office of the Attorney General of the District of Columbia, or pursuant to D.C. Official Code
133 § 16-2305.02;”.

134 (f) Section 16-2332(c)(4)(D) is amended to read as follows:

135 “(D) Authorized personnel in the Mayor’s Family Court Liaison, the
136 Department of Health, the Department of Behavioral Health, the Child and Family Services
137 Agency, the Department of Human Services, and the Office of the Attorney General for the
138 purpose of the delivery of services to individuals under the jurisdiction of the Family Court or
139 their families.

140 (g) Section 16-2333(b)(4)(C) is amended to read as follows:

141 “(C) Authorized personnel in the Mayor’s Family Court Liaison, the
142 Department of Health, the Department of Behavioral Health, the Child and Family Services
143 Agency, the Department of Human Services, and the Office of the Attorney General for the
144 purpose of:

145 “(i) The delivery of services to individuals under the jurisdiction of
146 the Family Court or their families; or

147 “(ii) Monitoring recidivism of and the efficacy of services
148 provided to:

149 “(I) Individuals under the jurisdiction of the Family Court;
150 and

151 “(II) Youth who have been diverted by law enforcement, by
152 the Office of the Attorney General of the District of Columbia, or pursuant to D.C. Official Code
153 § 16-2305.02;”.

154 Sec. 104. Section 23-1322(g) of the District of Columbia Official Code is amended as
155 follows:

156 (a) Paragraph (3) is amended by striking the word “and”.

157 (b) Paragraph (4) is amended by striking the period and inserting the phrase “; and” in its
158 place.

159 (c) A new paragraph (5) is added to read as follows:

160 “(5) After October 1, 2018, if the person is younger than 18 years of age, direct
161 that the person be detained in a juvenile facility, as described in § 16-2313(b)(3), pursuant to the
162 federal standards at 28 C.F.R. § 115.14.”.

163 **TITLE II. IMPROVING CONDITIONS OF CONFINEMENT.**

164 Sec. 201. Short Title.

165 This title may be cited as the “Improving the Confinement of Juveniles Amendment Act
166 of 2016”.

167 Sec. 202. Definitions.

168 For the purposes of this act, the term:

169 (1) “Juvenile” means any individual under 18 years of age and any “child” as
170 defined in D.C. Code § 16-2301(3).

171 (2) “Penal institution” shall have the same meaning as provided in section 2(6) of
172 An Act To prohibit the introduction of contraband into the District of Columbia penal
173 institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-2603.01(6)).

174 (3) “Room confinement” means the involuntary restriction of a juvenile in a cell
175 or room other than during normal sleeping hours, shift-changes, or facility-wide lockdowns.

176 (4) “Secure juvenile residential facility” shall have the same meaning as provided
177 in section 2(7) of An Act To prohibit the introduction of contraband into the District of Columbia
178 penal institutions, approved December 15, 1941 (55 Stat. 800; D.C. Official Code § 22-
179 2603.01(6)).

180 (5) “Serious mental illness” means a substantial disorder of thought or mood that
181 significantly impairs judgment, behavior, the capacity to recognize reality, or the ability to cope
182 with the ordinary demands of life.

183 Sec. 203. Limitations on the use of room confinement.

184 (a) Neither the Department of Corrections nor the Department of Youth Rehabilitation
185 Services shall use room confinement for the purposes of punishment, disciplinary sanction,
186 administrative convenience, or staffing shortages.

187 (b) Except as provided in subsection (f), a penal institution or secure juvenile residential
188 facility may use room confinement only upon a specific finding of:

189 (1) Imminent harm to the juvenile or another person;

190 (2) Imminent danger to the safe or secure operation of the penal institution or
191 secure juvenile residential facility; or

192 (3) Disruption of a formal investigation.

193 (c) A licensed mental health provider (“provider”) shall perform a mental health
194 assessment on a juvenile placed in room confinement within 1 hour of placement. After an
195 assessment, the Department of Youth Rehabilitation Services or Department of Corrections shall
196 provide mental health services to the juvenile as appropriate.

197 (d) If any of the conditions in subsection (b) exist, the penal institution or secure juvenile
198 residential facility may use room confinement; provided, that:

199 (1) The Department of Corrections or the Department of Youth Rehabilitation
200 Services has made a specific written finding that there are no other reasonable means to
201 eliminate the condition, and that room confinement is used only to the extent necessary to
202 eliminate the condition identified;

203 (2) The agency administering the penal institution or secure juvenile residential
204 facility promptly notifies the juvenile of the specific findings relied upon to make the
205 determination to place the juvenile in room confinement;

206 (3) Such room confinement takes place under the least restrictive conditions
207 practicable and consistent with the individualized rationale for placement;

208 (4) Staff develops a plan that will allow the youth to leave room confinement and
209 return to programming as soon as possible; and

210 (5) Confinement is approved by a mental health professional that has assessed the
211 juvenile in person.

212 (e) Room confinement shall be used for the briefest period of time possible not to exceed
213 six hours. If a mental health professional deems that the level of crisis intervention necessary is
214 not available in the current environment or, if at the end of six hours, the juvenile has not
215 regained control over themselves, then the youth shall be transferred either to a mental health
216 facility or the medical unit of the facility; provided that:

217 (1) Written notice of the decision and justification for the decision is provided to
218 the juvenile upon transfer;

219 (2) The placement of the youth in the mental health facility or medical unit of the
220 facility is reevaluated by a medical professional every 48 hours;

221 (3) Any continued placement of the juvenile in the mental health facility or
222 medical unit is accompanied by a written notice to the juvenile of the decision and justification
223 for the decision.

224 (f) The agency administering the penal institution or secure juvenile residential facility
225 may grant a juvenile's request for room confinement provided that the juvenile is free at any time
226 to revoke his or her request for confinement.

227 Sec. 206. Manual for families of juveniles.

228 Within 180 days of the effective date of this act, the Department of Youth Rehabilitation
229 Services, in conjunction with other appropriate District agencies, shall develop a manual for
230 families of juveniles residing in secure juvenile residential facilities which shall include, at a
231 minimum, information on the operation of the institution or facility as it relates to families of

232 juveniles, information on government and community resources available for families of
233 juveniles, and information and resources available for juveniles leaving confinement.

234 Sec. 207. Subtitle B of Title I of the Department of Youth Rehabilitation Services
235 Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-
236 1515.01 *et seq.*), is amended as follows:

237 (a) Section 152 (D.C. Official Code § 2-1515.52) is amended as follows:

238 (1) Subsection (a) is amended by striking the phrase “who is known to be
239 pregnant”.

240 (2) Subsection (b) is amended by striking the phrase “who is known to be
241 pregnant require restraints” and inserting the word “are” in its place.

242 (3) A new subsection (f) is added to read as follows:

243 “(f) Notwithstanding subsections (a) and (b) of this section, the Administrator
244 may authorize the use of reasonable restraints on confined youth who are not in the third
245 trimester of pregnancy, in labor, or in postpartum recovery, but who are either in transit to or
246 from a secure facility or whose present or recent behavior has demonstrated that restraints are
247 necessary to protect the safety of the respondent or others, or to prevent flight.”.

248 TITLE III. INCARCERATION REDUCTION.

249 Sec. 301. Short Title.

250 This title may be cited as the “Incarceration Reduction Amendment Act of 2016”.

251 Sec. 302. Section 101 of the Attorney General for the District of Columbia Clarification
252 and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C.
253 Official Code § 1-301.81(a)) is amended as follows:

254 (a) A new paragraph (a)(3) is added to read as follows:

255 “(a)(3) The Attorney General shall develop a program to provide victim-offender
256 mediation as an alternative to the prosecution of juveniles in cases deemed appropriate by the
257 Attorney General; provided, that participation in the mediation program established in this
258 subsection shall be voluntary for both the victim and the offender.”.

259 Sec. 303. Section 3a of An Act To establish a Board of Indeterminate Sentence and
260 Parole for the District of Columbia and to determine its functions, and for other purposes,
261 approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403.01), is amended as follows:

262 (a) Subsection (c) is amended by striking the phrase “required by law.” and
263 inserting the phrase “required by law; except that notwithstanding any other provision of law, if
264 the person committed the offense while under 18 years of age:

265 (1) The court may issue a sentence less than the minimum term otherwise
266 required by law;

267 (2) The court shall not impose a sentence of life imprisonment without the
268 possibility of parole or release.”.

269 **TITLE IV. YOUTH REHABILITATION ACCOUNTABILITY.**

270 Sec. 401. Short Title.

271 This title may be cited as the “Rehabilitation Accountability Amendment Act of 2016”.

272 Sec. 402. The Department of Youth Rehabilitation Services Establishment Act of 2004,
273 effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended
274 as follows:

275 (a) Section 104 (D.C. Official Code § 2-1515.04) is amended as follows:

276 (1) Paragraph (13) is amended by striking the word “and” at the end of the
277 sentence.

278 (2) Paragraph (14) is amended by the striking the period and inserting a semi-
279 colon in its place.

280 (3) A new paragraph (15) is added to read as follows:

281 “(15) Conducting an annual analysis, to be submitted to the Council by October 1
282 of each year, of the root causes leading to the incarceration of the Department’s current
283 committed youth, including a voluntary survey of all current committed youth and any self-
284 reported adverse childhood experiences; and”.

285 (4) A new paragraph (16) is added to read as follows:

286 “(16) Evaluating the effectiveness of rehabilitation programs by collecting any
287 available information from other District agencies on the education, employment, and criminal
288 justice outcomes for currently or previously committed youth who are under twenty-four years of
289 age.”.

290 (b) A new section 104b is added to read as follows:

291 “Sec. 104b. Data Collection.

292 “(a) The Department shall request any available records on education, employment, and
293 criminal justice outcomes of currently and previously committed youth who are under twenty-
294 four years of age from any agency that has served the youth, including the:

295 “(1) Office of the State Superintendent of Education;

296 “(2) District of Columbia Public Schools;

297 “(3) Public charter schools;

298 “(4) University of the District of Columbia;

299 “(5) Department of Employment Services; and

300 “(6) Metropolitan Police Department.

301 “(b) All records collected by the Department pursuant to this section shall be kept
302 privileged and confidential pursuant to section 106 of this act.”.

303 **TITLE V. CONSTRUCTIVE NOTICE**

304 **Sec. 601. Section 13-336(a) of the District of Columbia Official Code is amended to read**
305 **as follows:**

306 “(a) In actions specified by subsection (b) of this section, publication may be substituted
307 for personal service of process upon a defendant who cannot be found after diligent efforts or
308 who by concealment seeks to avoid the service of process, or against the unknown heirs or
309 devisees of deceased persons.”

310 **TITLE VI. FISCAL IMPACT; EFFECTIVE DATE.**

311 **Sec. 701. Fiscal impact statement.**

312 The Council adopts the fiscal impact statement in the committee report as the fiscal
313 impact statement required by 4a of the General Legislative Procedures Act of 1975, approved
314 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

315 **Sec. 702. Effective date.**

316 This act shall take effect following approval by the Mayor (or in the event of veto by the
317 Mayor, action by the Council to override the veto), a 60-day period of congressional review as
318 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December
319 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
320 Columbia Register.