

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Advisory Commission on Sentencing Establishment Act of 1998 to require reports to be submitted to the Council in 2002 and 2003 on the implementation of the determinate sentencing system and recommendations, if any, for a structured sentencing system; to amend section 16-710 of the District of Columbia Code to authorize the court to order a probationer to be placed in custody for brief periods as a condition of probation; to amend An Act To Establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to amend and to determine its functions, and for other purposes, to require the court to impose a determinate sentence, to abolish parole, and to impose a period of supervised release to follow release from imprisonment or commitment for all felonies committed on or after August 5, 2000; to amend An Act To establish a code of law for the District of Columbia, An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, the District of Columbia Theft and White Collar Crime Act of 1982, and the Anti-Sexual Abuse Act of 1994 to reduce life sentences to thirty years' imprisonment and to bring them into conformity with the amendments to An Act To Establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to amend and to determine its functions, and for other purposes; to amend the Youth Rehabilitation Amendment Act of 1985 to eliminate for felons its age segregation requirement, and to specify the circumstances under which a set-aside conviction can be used; and to make other amendments consistent with the National Capital Revitalization and Self-Government Improvement Act of 1997.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sentencing Reform Amendment Act of 2000".

Sec. 2. Section 6 of the Advisory Commission on Sentencing Establishment Act of 1998 is amended to read as follows:

"Sec. 6. Sentencing guidelines.

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“(a) The Commission shall submit to the Council in the 2002 annual report a survey of the various types of structured sentencing systems in use in the United States and the Commission's recommendations as to which system would best serve the District of Columbia. The Commission shall also submit recommendations for the classification or ranking of criminal offenses in the District of Columbia.

“(b) The Court shall collect and provide to the Commission data on the length of and reasons for each sentence imposed for crimes committed on or after August 5, 2000. The reasons should include, but are not limited to, the weight given to such factors as the background and criminal history of the offender, the nature of the offense, and the impact of the offense on the victim or community. The data shall not become a part of the record and shall not be used to challenge the sentence imposed.

“(c) The Commission shall analyze the data provided to it by the Court and shall submit to the Council in the 2002 annual report:

“(1) An interim assessment on the implementation of the determinate sentencing system; and

“(2) An assessment of sentencing practices within the District of Columbia for August 5, 1996 to August 5, 2000.

“(d) The Commission shall submit to the Council in its 2003 annual report a recommendation for a comprehensive structured sentencing system in the District of Columbia or, in the alternative, a detailed explanation as to why the District of Columbia does not need a structured sentencing system. The Commission shall continue to analyze the data specified in subsections (b) and (c) of this section and submit a final report of its findings in its 2003 annual report to the Council.”.

Sec. 3. Section 16-710 of the District of Columbia Code is amended by adding a new subsection (b-1) to read as follows:

“(b-1) The court may order as a condition of probation for any defendant convicted of a felony that the defendant remain in custody or in a community correctional center during nights, weekends, or other intervals totaling not more than one year during the term of probation.”.

Sec. 4. An Act To establish a code of law for the District of Columbia is amended as follows:

(a) Section 798 is amended by adding a new sentence at the end to read as follows:

“For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, murder in the first degree is a Class A felony.”.

(b) Section 799 is amended by adding a new sentence at the end to read as follows:

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“For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, murder in the first degree is a Class A felony.”

(c) Section 800 is amended by adding a new sentence at the end to read as follows:

“For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes murder in the second degree is a Class A felony.”

(d) Section 801 is amended to read as follows:

“(a) The punishment for murder in the first degree shall be not less than 30 years nor more than life imprisonment without release, except that the court may impose a prison sentence in excess of 60 years only in accordance with section 801a of An Act To establish a code of law for the District of Columbia or section 3a(b-2) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes. The prosecution shall notify the defendant in writing at least 30 days prior to trial that it intends to seek a sentence of life imprisonment without release as provided in section 801a of An Act To establish a code of law for the District of Columbia; provided that, no person who was less than 18 years of age at the time the murder was committed shall be sentenced to life imprisonment without release.

“(b) Notwithstanding any other provision of law, a person convicted of murder in the first degree shall not be released from prison prior to the expiration of 30 years from the date of the commencement of the sentence.

“(c) Whoever is guilty of murder in the second degree shall be sentenced to a period of incarceration of not more than life, except that the court may impose a prison sentence in excess of 40 years only in accordance with section 3a(b-2) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes.

“(d) For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, murder in the first degree and murder in the second degree are Class A felonies.”

(e) Section 801a is amended as follows:

(1) Strike the word "parole" wherever it appears and insert the word "release" in its place.

(2) Subsection (a) is amended by striking the phrase "life imprisonment or" and inserting the phrase "more than 60 years up to, and including," in its place.

(3) Subsection (b) is amended by striking the phrase "the court shall consider" and inserting the phrase "a finding shall be made" in its place.

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(4) Subsection (c) is amended as follows:

(A) Strike the phrase "court shall" and insert the phrase "finding shall".

(B) Strike the phrase "the court finds that".

(C) Add the phrase "more than 60 years up to, and including," before the phrase "life imprisonment without".

(f) Section 811a is amended as follows:

(1) Subsection (b)(2) is amended by adding two new sentences at the end to read as follows:

“However, the court may impose a prison sentence in excess of 30 years only in accordance with section 3a(b-2) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes. For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes armed carjacking is a Class A felony.”.

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

“(c) Notwithstanding any other provision of law, a person convicted of carjacking shall not be released from prison prior to the expiration of 7 years from the date of the commencement of the sentence, and a person convicted of armed carjacking shall not be released from prison prior to the expiration of 15 years from the date of the commencement of the sentence.”.

(g) Section 812 is amended as follows:

(1) Strike the phrase "life or for any term as the court in its discretion may determine." and insert the phrase “not more than 30 years.” in its place.

(2) Add a new sentence after the first sentence to read as follows:

"For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, the offense defined by this section is a Class A felony.”.

(h) Section 907a(a) is amended as follows:

(1) Paragraph (1) is amended by striking the word “life” and inserting the phrase "30 years" in its place.

(2) Paragraph (2) is amended by striking the phrase “a term of imprisonment of life without possibility of parole” and inserting the phrase "such greater term of imprisonment as it deems necessary up to, and including, life without possibility of release" in its place.

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

“(3) For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, the third or subsequent felony committed by a person who had previously been convicted of 2 prior felonies not committed on the same occasion and the third or subsequent crime of violence committed by

a person who had previously been convicted of 2 prior crimes of violence not committed on the same occasion are Class A felonies.”.

Sec. 5. Section 502(b) of the District of Columbia Theft and White Collar Crimes Act of 1982 is amended as follows:

(a) Strike the word "life" and insert the phrase “30 years” in its place.

(b) Add a new sentence at the end to read as follows:

“For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, obstruction of justice is a Class A felony.”.

Sec. 6. An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes is amended as follows:

(a) Section 2 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase "up to life imprisonment" and inserting the phrase "up to, and including, 30 years for all offenses except first degree murder while armed, second degree murder while armed, first degree sexual abuse while armed, and first degree child sexual abuse while armed," in its place.

(B) Paragraph (2) is amended by striking the phrase, "to a minimum period of imprisonment of not less than 5 years and a maximum period of imprisonment which may not be less than 3 times the minimum sentence imposed and may be up to life imprisonment" and inserting the phrase "to a period of imprisonment of not less than 5 years and, except for first degree murder while armed, second degree murder while armed, first degree sexual abuse while armed and first degree child sexual abuse while armed, not more than 30 years".

(3) New paragraphs (3) and (4) are added to read as follows:

"(3) Shall, if such person is convicted of first degree murder while armed, second degree murder while armed, first degree sexual abuse while armed, or first degree child sexual abuse while armed, be sentenced, in addition to the penalty provided for such crime, to a period of imprisonment of not less than the minimum and mandatory minimum sentences required by subsections (a)(1), (a)(2), (c) and (e) of this section and section 801 of An Act To establish a code of law for the District of Columbia, and not more than life imprisonment or life imprisonment without possibility of release as authorized by section 3a(b-2) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes; section 801 of An Act To establish a code of law for the District of Columbia; section 801a of An Act To establish a code of law for the District of Columbia; and sections

201, 207, and 219 of the Anti-Sexual Abuse Act of 1994.

“(4) For purposes of imprisonment following revocation of release authorized by 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, the offenses defined by this section are Class A felonies.”.

(2) Subsection (b) is repealed .

(3) Subsection (c) is amended by striking the phrase “on parole,”.

(4) Subsection (d) is repealed.

(b) Section 15A(d) is amended as follows:

(1) Strike the phrase “of any term of years up to life imprisonment” and insert the phrase “not more than 30 years” in its place.

(2) A new sentence is added at the end to read as follows:

“For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, the third or subsequent conviction for an offense defined by this section is a Class A felony.”.

Sec. 7. The Anti-Sexual Abuse Act of 1994 is amended as follows:

(a) Section 201 is amended as follows:

(1) The existing text is designated as subsection (a).

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

“(b) The court may impose a prison sentence in excess of 30 years only in accordance with section 219 or section 3a(b-2) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes. For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, the offense defined by this section is a Class A felony.”.

(b) Section 207 is amended by adding two new sentences at the end to read as follows:

“However, the court may impose a prison sentence in excess of 30 years only in accordance with section 219 or section 3a(b-2) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes. For purposes of imprisonment following revocation of release authorized by section 3a(b)(7) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, the offense defined by this section is a Class A felony.”.

(c) Section 219(a) is amended by striking the phrase “a life sentence without parole, if life imprisonment is the maximum penalty prescribed for the offense,” and inserting the phrase “a

sentence of more than 30 years up to, and including life imprisonment without possibility of release for first degree sexual abuse or first degree child sexual abuse," in its place.

Sec. 8. An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes is amended as follows:

(a) Section 3a is amended as follows:

(1) Subsection (a) is amended by striking the phrase, "Notwithstanding any other provision of law, for" and inserting the word, "For" in its place.

(2) Subsection (b) is amended to read as follows:

“(b)(1) If an offender is sentenced to imprisonment, or to commitment pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985, under this section, the court shall impose a period of supervision (“supervised release”) to follow release from the imprisonment or commitment.

“(2) If the court imposes a sentence of more than one year, the court shall impose a term of supervised release of:

“(A) Five years, if the maximum term of imprisonment authorized for the offense is 25 years or more; or

“(B) Three years, if the maximum term of imprisonment authorized for the offense is more than one year, but less than 25 years.

“(3) If the court imposes a sentence of one year or less, the court shall impose a term of supervised release of:

“(A) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is 25 years or more; or

“(B) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is more than one year, but less than 25 years.

“(4) In the case of a person sentenced for an offense for which registration is required by the Sex Offender Registration Act of 1999, the court may, in its discretion, impose a longer term of supervised release than that required or authorized by paragraph (2) or (3) of this subsection, of:

“(A) Not more than 10 years; or

“(B) Not more than life if the person is required to register for life.

“(5) The term of supervised release commences on the day the offender is released from imprisonment, and runs concurrently with any federal, state, or local term of probation, parole, or supervised release for another offense to which the offender is subject or becomes subject during the term of supervised release. A term of supervised release does not run during any period in which the offender is imprisoned in connection with a conviction for a federal, state, or local crime unless the period of imprisonment is less than 30 days.

“(6) Offenders on supervised release shall be subject to the authority of the United States Parole Commission until completion of the term of supervised release. The Parole

Commission shall have and exercise the same authority as is vested in the United States District Courts by 18 U.S.C. § 3583(d) - (i), except that:

“(A) The procedures followed by the Parole Commission in exercising such authority shall be those set forth in chapter 311 of title 18 of the United States Code; and

“(B) An extension of a term of supervised release under 18 U.S.C. § 3583(e)(2) may be ordered only by the court upon motion from the Parole Commission.

“(7) An offender whose term of supervised release is revoked may be imprisoned for a period of:

“(A) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is life or the offense is specifically designated as a Class A felony;

“(B) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is 25 years or more, but less than life and the offense is not specifically designated as a Class A felony;

“(C) Not more than 2 years, if the maximum term of imprisonment authorized for the offense is 5 years or more, but less than 25 years; or

“(D) Not more than 1 year, if the maximum term of imprisonment authorized for the offense is less than 5 years.”.

(3) New subsections (b-1) and (b-2) are added to read as follows:

“(b-1) If the maximum term of imprisonment authorized for an offense is a term of years, the term of imprisonment or commitment imposed by the court shall not exceed the maximum term of imprisonment authorized for the offense less the maximum term of imprisonment authorized upon revocation of supervised release pursuant to subsection (b)(7) of this section. If the maximum term of imprisonment authorized for the offense is up to life or if an offense is specifically designated as a Class A felony, the maximum term of imprisonment authorized upon revocation of supervised release pursuant to subsection (b)(7) shall not be deducted from the maximum term of imprisonment or commitment authorized for such offense.

“(b-2)(1) The court may impose a sentence in excess of 60 years for first degree murder or first degree murder while armed, 40 years for second degree murder or second degree murder while armed, or 30 years for armed carjacking, first degree sexual abuse, first degree sexual abuse while armed, first degree child sexual abuse or first degree sexual abuse while armed, only if--

“(A) Thirty-days prior to trial or the entry of a plea of guilty, the prosecutor files an indictment or information with the clerk of the court and a copy of such indictment or information is served on the person or counsel for the person, stating in writing one or more aggravating circumstances to be relied upon; and

“(B) One or more aggravating circumstances exist beyond a reasonable doubt.

“(2) Aggravating circumstances for first degree murder are set forth in section 801a of An Act To establish a code of law for the District of Columbia. Aggravating

circumstances for first degree sexual abuse and first degree child sexual abuse are set forth in section 219 of the Anti-Sexual Abuse Act of 1994. In addition, for all offenses, aggravating circumstances include:

“(A) The offense was committed because of the victim’s race, color, religion, national origin or sexual orientation;

“(B) The offense was committed because the victim was or had been a witness in any criminal investigation or judicial proceeding or was capable of providing or had provided assistance in any criminal investigation or judicial proceeding;

“(C) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

“(D) The offense was especially heinous, atrocious, or cruel;

“(E) The offense involved a drive-by or random shooting;

“(F) The offense was committed after substantial planning;

“(G) The victim was less than 12 years old or more than 60 years old or vulnerable because of mental or physical infirmity; or

“(H) Except where death or serious bodily injury is an element of the offense, the victim sustained serious bodily injury as a result of the offense.

“(3) This section does not limit the imposition of a maximum sentence of up to life imprisonment without possibility of release authorized by section 907a(a)(2) of An Act To establish a code of law for the District of Columbia; section 801a of An Act To establish a code of law for the District of Columbia; section 802a of An Act To establish a code of law for the District of Columbia; and section 201 of the Anti-Sexual Abuse Act of 1994.”.

(4) Subsection (c) is amended as follows:

(A) The first sentence is amended by striking the phrase “In the case of a felony described in section 11212(h) of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (111 Stat. 712; D.C. Code § 24-1212(h)), a” and inserting the word “A” in its place.

(B) The second sentence is amended by striking the phrase “for such a felony ”.

(b) A new section 3b is added to read as follows:

“Sec. 3b. Sentencing and good time credit for misdemeanors committed on or after August 5, 2000.

“A sentence of incarceration, or of commitment pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985, for a misdemeanor committed on or after August 5, 2000, shall be for a definite term, which shall not exceed the maximum term allowed by law. A person sentenced to incarceration, or to commitment pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985 under this section, shall serve the term of incarceration or commitment specified in the sentence, less any time credited toward service of the sentence as provided in sections 3 through 7 of the District of Columbia Good Time Credits Act of 1986.”.

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(c) Section 9 is amended by adding a new subsection (a-1) to read as follows:

“(a-1) Notwithstanding any other provision of law, subsection (a) of this section shall not apply to any offense committed on or after August 5, 2000.”.

Sec. 9. The Youth Rehabilitation Amendment Act of 1985 is amended as follows:

(a) Section 2(1) is amended as follows by striking the phrase “for treatment in the District of Columbia”.

(b) Section 3 is amended to read as follows:

“(a) The Mayor shall provide facilities and personnel for the treatment and rehabilitation of youth offenders convicted of misdemeanor offenses under District of Columbia law and sentenced according to this act.

“(b)(1) The Mayor shall periodically set aside and adapt facilities for the treatment, care, education, vocational training, rehabilitation, segregation, and protection of youth offenders convicted of misdemeanor offenses.

“(2) Insofar as practical, these institutions maintained by the District of Columbia shall treat committed youth offenders convicted of misdemeanor offenses only, and the youth offenders shall be segregated from other offenders, and classes of committed youth offenders shall be segregated according to their needs for treatment.

“(c) The Federal Bureau of Prisons is authorized to provide for the custody, care, subsistence, education, treatment, and training of youth offenders convicted of felony offenses and sentenced to commitment.”.

(c) Section 5 is amended by adding a new subsection (c) to read as follows:

“(c) Notwithstanding any other provision of law, subsections (a) and (b) of this section shall not apply to a youth offender convicted of any offense committed on or after August 5, 2000.”

(d) Section 6 is amended by adding a new subsection (c) to read as follows:

“(c) Notwithstanding any other provision of law, subsections (a) and (b) of this section shall not apply to a youth offender convicted of any offense committed on or after August 5, 2000.”.

(e) Section 7 is amended to read as follows:

“(a) Upon unconditional discharge of a committed youth offender before the expiration of the sentence imposed, the youth offender’s conviction shall be automatically set aside.

“(b) If the sentence of a committed youth offender expires before unconditional discharge, the United States Parole Commission may, in its discretion, set aside the conviction.

“(c) Where a youth offender is sentenced to commitment and a term of supervised release for a felony committed on or after August 5, 2000, and the United States Parole Commission exercises its authority pursuant to 18 U.S.C. § 3583(e)(1) to terminate the term of supervised release before its expiration, the youth offender’s conviction shall be automatically set aside.

“(d) In any case in which the youth offender’s conviction is set aside, the youth offender shall be issued a certificate to that effect.

“(e) Where a youth offender has been placed on probation by the court, the court may, in its discretion, unconditionally discharge the youth offender from probation before the end of the maximum period of probation previously fixed by the court. The discharge shall automatically set aside the conviction. If the sentence of a youth offender who has been placed on probation by the court expires before unconditional discharge, the court may, in its discretion, set aside the conviction. In any case where the court sets aside the conviction of a youth offender, the court shall issue to the youth offender a certificate to that effect.

“(f) A conviction set aside under this section may be used:

“(1) In determining whether a person has committed a second or subsequent offense for purposes of imposing an enhanced sentence under any provision of law;

“(2) In determining whether an offense under section 401 of the District of Columbia Uniform Controlled Substances Act of 1981 is a second or subsequent violation under section 11212(h)(14) of the National Capital Revitalization and Self-Government Improvement Act of 1997;

“(3) In determining an appropriate sentence if the person is subsequently convicted of another crime;

“(4) For impeachment if the person testifies in his own defense at trial pursuant to section 14-305 of the District of Columbia Code;

“(5) For cross-examining character witnesses; or

“(6) For sex offender registration and notification.”.

(f) Section 8 is amended as follows:

(1) The section heading is amended by striking the phrase “; division of responsibility”.

(2) The text is amended by striking the phrase “, including the division of responsibility between the District of Columbia Board of Parole and the District of Columbia Department of Corrections”.

Sec. 10. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 11. This act shall apply to offenses committed on or after August 5, 2000.

Sec. 12. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April

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17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(2)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia