

AN ACT

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Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Advisory Commission on Sentencing Establishment Act of 1998 to authorize the District of Columbia Sentencing and Criminal Code Revision Commission to promulgate, implement, and revise a system of voluntary guidelines, publish instructions and provide technical assistance to the court and practitioners, review and analyze sentencing data, file reports with the Council, and review and research sentencing policies and practices, to exempt ex officio members from term limits, and to repeal provisions that are outdated.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Sentencing and Criminal Code Revision Commission Amendment Act of 2007”.

Sec. 2. The Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-101 *et seq.*), is amended as follows:

(a) Section 2(b) (D.C. Official Code § 3-101(b)) is amended to read as follows:

Amend
§ 3-101

“(b) In addition to the duties required under section 2a, the Commission shall perform the following duties:

“(1) Promulgate, implement, and revise a system of voluntary sentencing guidelines for use in the Superior Court of the District of Columbia designed to achieve the goals of certainty, consistency, and adequacy of punishment, with due regard for the:

- “(A) Seriousness of the offense;
- “(B) Dangerousness of the offender;
- “(C) Need to protect the safety of the community;
- “(D) Offender’s potential for rehabilitation; and
- “(E) Use of alternatives to prison, where appropriate;

“(2) Publish a manual containing the instructions for applying the voluntary guidelines, update the manual periodically, and provide ongoing technical assistance to the court and practitioners on sentencing and sentencing guideline issues;

“(3) Review and analyze pertinent sentencing data and, where the information

has not been provided in a particular case, ask the judge to specify the factors upon which he or she relied in departing from the guideline recommendations or for imposing what appears to be a noncompliant sentence;

“(4) Conduct focus groups, community outreach, training, and other activities designed to collect and disseminate information about the guidelines;

“(5) Review and research sentencing policies and practices locally and nationally, and make recommendations to increase the fairness and effectiveness of sentences in the District of Columbia; and

“(6) Consult with other District of Columbia, federal, and state agencies that are affected by or address sentencing issues.”.

(b) Section 2a(c) (D.C. Official Code § 3-101.01(c)) is amended by striking the word “recommendations” and inserting the phrase “recommendations for criminal code revisions” in its place.

Amend
§ 3-101.01

(c) Section 3 (D.C. Official Code § 3-102) is amended as follows:

Amend
§ 3-102

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

(A) Paragraph (1) is amended as follows:

(i) Subparagraph (E) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General” in its place.

(ii) Subparagraph (F) is amended to read as follows:

“(F) The Director of the Court Services and Offender Supervision Agency for the District of Columbia or his or her designee;”.

(B) Paragraph (2)(E) is amended to read as follows:

“(E) The chairperson of the Council committee that has oversight of the Commission within its purview.”.

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

“(b) The appointment of members designated by subsection (a)(1)(G), (H), (I), and (J) of this section shall be made in accordance with the following provisions:

“(1) Each member shall be appointed for a term of 3 years, and shall continue to serve during that time as long as the member remains eligible for the appointment.

“(2) A member may be reappointed.

“(3) A person appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed.

“(4) A member may be removed only for incompetence, neglect of duty, or misconduct.”.

(d) Section 4(c) (D.C. Official Code § 3-103(c)) is amended by striking the number “7” and inserting the number “8” in its place.

Amend
§ 3-103

(e) Section 5 (D.C. Official Code § 3-104) is amended as follows:

Amend
§ 3-104

(1) Subsection (c) is repealed.

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

“(d) Starting in 2008, the Commission shall file a report with the Council on or before

April 30 of each calendar year that:

“(1) Contains an analysis of the sentences imposed in the preceding calendar year, including:

“(A) The rate of compliance with the guidelines;

“(B) The number and extent of any departures from the guidelines; and

“(C) The reasons given for those departures;

“(2) Describes any substantive changes made to the guidelines during the preceding year, including changes in the:

“(A) Recommended sentencing options or prison ranges;

“(B) Ranking of particular offenses; or

“(C) Rules for scoring criminal history; and

“(3) Informs the Council how it has ranked any new felony offense or reranked any existing felony offense because of a statutory change or for another reason, and the resulting guideline sentencing options and prison range for each such an offense.”.

(f) Section 6 (D.C. Official Code § 3-105) is amended to read as follows:

Amend
§ 3-105

“Sec. 6. Voluntary sentencing guidelines.

“(a) The voluntary sentencing guidelines promulgated by the Commission shall not be binding on judges.

“(b) Notwithstanding the guidelines, the judge in an individual case may impose any sentence that does not exceed the maximum term prescribed by law and is not otherwise prohibited by the Constitution or laws of the United States or the District of Columbia.

“(c) The sentencing guidelines shall not create any legally enforceable rights in any party nor shall they diminish any rights that currently exist.

“(d) The Commission shall not implement any changes in the basic structure of the voluntary sentencing guidelines without first informing the Council.”.

Sec. 3. Section 101 of the District of Columbia Police and Firemen’s Salary Act of 1958, approved August 1, 1958 (72 Stat. 481; D.C. Official Code § 5-541.01), is amended by adding a new subsection (a-1) to read as follows:

Amend
§ 5-541.01

“(a-1) Notwithstanding subsection (a) of this section, the Chief of the Fire and Emergency Medical Services Department, effective April 16, 2007, shall be paid under the DX Schedule, at the Grade E5 level, pursuant to section 1052 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-610.52).”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer 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. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 5. Effective date.

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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia