

ENROLLMENT(S)

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COUNCIL OF THE DISTRICT OF COLUMBIA

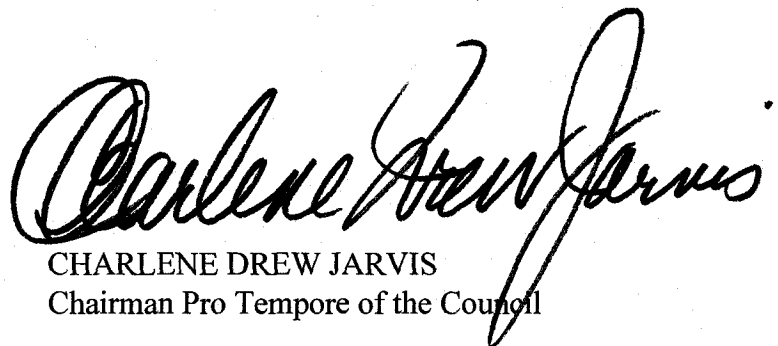
NOTICE

D.C. LAW 11- 176

"Abatement of Controlled Dangerous Substances Nuisance Amendment Act of 1996".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 11-70, on first and second readings, June 4, 1996 and July 3, 1996, respectively. Following the signature of the Mayor on July 22, 1996, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-326, and published in the August 9, 1996, edition of the D.C. Register (Vol. 43 page 4234) and transmitted to Congress on January 10, 1997 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 11-176, effective April 9, 1997.



CHARLENE DREW JARVIS
Chairman Pro Tempore of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 3,4,5,6,7,10,11,12,13,24,25,26,27,28
Mar. 3,4,5,6,10,11,12,13,14,17,18,19,20,21
Apr. 7,8

AN ACT
D.C. ACT 11-326

Codification
District of
Columbia
Code
1997 Supp.

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 22, 1996

To amend the Residential Drug-Related Evictions Amendment Act of 1990 to authorize the Corporation Counsel, civic association, or community association within whose boundary the nuisance is located to bring a civil action to abate a nuisance of controlled dangerous substances located on privately owned residential property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Abatement of Controlled Dangerous Substances Nuisance Amendment Act of 1996".

Sec. 2. The Residential Drug-Related Evictions Amendment Act of 1990, effective June 13, 1990 (D.C. Law 8-139; D.C. Code § 45-2559.1 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Code § 45-2559.1) is amended as follows:

Section
45-2559.1

(1) Paragraph 2 is amended by striking the phrase "during the 180-day period that precedes the time that an action is commenced pursuant to this act".

(2) New paragraphs 13 through 16 are added to read as follows:

"(13) "Civic association" means:

"(A) A nonprofit association, corporation, or other organization that is:

"(i) Comprised of residents of a community within which a nuisance is located;

"(ii) Operated exclusively for the promotion of social welfare and general neighborhood improvement and enhancement; and

"(iii) Exempt from taxation pursuant to section 501(c)(3) or (4) of the Internal Revenue Code; or

"(B) A nonprofit association, corporation, or other organization that is:

"(i) Comprised of residents of a contiguous community that is defined by specific geographic boundaries, within which a nuisance is located; and

"(ii) Operated for the promotion of the welfare, improvement,

ENROLLED ORIGINAL

and enhancement of that community.

"(14) "Community association" means:

"(A) A nonprofit association, corporation, or other organization that is:

"(i) Comprised of residents of a community within which a nuisance is located;

"(ii) Operated exclusively for the promotion of social welfare and general neighborhood improvement and enhancement; and

"(iii) Exempt from taxation pursuant to section 501(c)(3) or (4) of the Internal Revenue Code; or

"(B) A nonprofit association, corporation, or other organization that is:

"(i) Comprised of residents of a contiguous community that is defined by specific geographic boundaries, within which a nuisance is located; and

"(ii) Operated for the promotion of the welfare, improvement, and enhancement of that community.

"(15) "Controlled dangerous substance" means any of the controlled substances as defined in 204(1) and (2) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code § 33-514 (1) and (2)).

"(16) "Nuisance" means a property that is used:

"(A) By persons who assemble for the specific purpose of illegally using a controlled dangerous substance;

"(B) For the illegal manufacture or distribution of:

"(i) A controlled dangerous substance; or

"(ii) Drug paraphernalia, as defined in section 2(3) of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Code § 33-601(3)); or

"(C) For the illegal storage or concealment of a controlled dangerous substance in sufficient quantity to reasonably indicate under all the circumstances an intent to manufacture, distribute, or dispense:

"(i) A controlled dangerous substance; or

"(ii) Drug paraphernalia, as defined in section 2(3) of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Code § 33-601(3))".

(b) Section 3(a) (D.C. Code § 45-2559.2(a)) is amended to read as follows:

"3(a) Notwithstanding any provision of § 16-1501 or section 501 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Code § 45-2551), a housing provider may commence an action in the Landlord and Tenant Branch of the Civil Division of the Superior Court ("Court") to recover possession of a rental unit or the Mayor may commence an action in the Court to evict a tenant or occupant in a rental unit. The following persons may commence an action to abate a nuisance in the Court: the Mayor, the civic association within

Section
45-2559.2

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whose boundaries the nuisance is located, or the community association within whose boundaries the nuisance is located. The recovery or eviction shall be ordered if the Court has determined, by a preponderance of the evidence, that the rental unit is a drug haven or that a nuisance exists. In making the determination that the rental unit is a drug haven or that a nuisance exists, the Court shall consider:

"(1) Whether a tenant or occupant of the rental unit has been charged with a violation of Chapter 5 of Title 33, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1242; 21 U.S.C. 801 *et seq.*), due to activities that occurred within the housing accommodation that contains the rental unit, or has violated a term of parole or probation for a previous conviction under Chapter 5 of Title 33, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1242; 21 U.S.C. 801 *et seq.*);

"(2) Whether the rental unit has been the subject of more than 1 drug-related search or seizure that has resulted in the arrest of a tenant or occupant;

"(3) Whether a firearm has been discharged within the rental unit;

"(4) The testimony of any witness concerning the possession, manufacture, storage, distribution, use, or the attempted possession, manufacture, storage, distribution, or use of an illegal drug by a tenant or occupant in the housing accommodation that contains the rental unit;

"(5) The general reputation of the property to corroborate testimony based on personal knowledge or observation, or evidence seized during the execution of a search and seizure warrant, provided, that this shall not, in and of itself, be sufficient to establish the existence of a drug haven or nuisance;

"(6) Evidence that the drug haven or nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing, which evidence will not bar the granting of appropriate relief by the Court; or

"(7) Any other relevant and admissible evidence that demonstrates that the rental unit is or is not a drug haven or nuisance."

(c) Section 4(a) (D.C. Code § 45-2559.3(a)) is amended by adding the phrase "or nuisance" after the word "haven".

Section
45-2559.3

(d) Section 5(a) (D.C. Code § 45-2559.4(a)) is amended as follows:

Section
45-2559.4

(1) Paragraph (1) is amended by adding the phrase "within 72 hours" after the word "occupant";

(2) Paragraph (2) is amended by adding a new sentence to the end to read as follows: "The Court may order the owner of the property to submit for court approval a plan of correction to ensure, to the extent reasonably possible, that the property will not again be used for a drug haven or nuisance."

(e) Section 6 (D.C. Code § 45-2559.5) is amended by adding the phrase "or nuisance" after the word "haven".

Section
45-2559.5

(f) A new section 8a is added to read as follows:

New, Section
45-2559.7a

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"Sec. 8a. Award of attorney's fees.

"The Court may award court costs and reasonable attorney's fees to a civic association, community association, or resident association that is the prevailing plaintiff in an action brought under this act."

(g) Section 10 (D.C. Code § 45-2559.9) is amended to read as follows:

Section
45-2559.9


"Sec. 10. Availability of other remedies.

The provisions of this act shall not limit the availability of other remedies under the law or other equitable relief whether or not an adequate remedy exists at law."

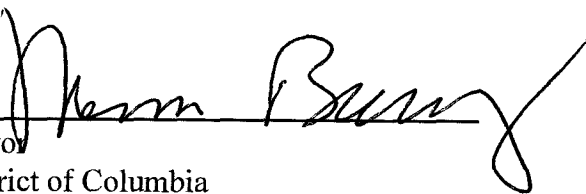
Sec. 3. Fiscal impact statement.

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 Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 4. 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 Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: July 22, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B11-70

ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FIRST READING, 6-4-96

VOICE VOTE APPROVED
RECORDED VOTE ON REQUEST

ABSENT EVANS AND CHAVOUS

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

July 10, 1996
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FINAL READING, 7-3-96

VOICE VOTE APPROVED
RECORDED VOTE ON REQUEST

ABSENT CHAVOUS

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no AB-Absent NV-Present not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

July 10, 1996
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE _____

VOICE VOTE _____
RECORDED VOTE ON REQUEST

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date