

ENROLLMENT(S)



(5)

AN ACT
D.C. ACT 11-361

*Codification
District of
Columbia
Code
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 1996

To amend title 16 of the District of Columbia Code to provide for an alternative to adjudication for juveniles charged with certain nonviolent offenses and to authorize the court to hold parents and guardians in contempt for not participating in a court-ordered proceeding or program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Adjustment Process for Nonviolent Juvenile Offenders and Parent Participation in Court-Ordered Proceedings Act of 1996".

Sec. 2. Chapter 23 of title 16 of the District of Columbia Code is amended as follows:

(a) The table of contents is amended by inserting the phrases "16-2305a. Findings." and "16-2305b. Preliminary probation conferences; adjustment process." after the phrase "16-2305. Petitions; contents; amendment." and by inserting the phrase "16-2325a. Participation order." after the phrase "16-2325. Support of committed child."

(b) New sections 16-2305a and 16-2305b are added to read as follows:

"§ 16-2305a. Findings.

"The Council finds that:

"(1) Juveniles who are not under proper supervision and control or who are arrested for certain nonviolent offenses are likely to endanger their own health, morals, and welfare and the health, morals, and welfare of others.

"(2) It shall be the policy of the District of Columbia that with respect to these juveniles the District of Columbia shall be guided by the assumption that juveniles who previously have had little or no contact with the juvenile justice system and who do not represent a danger to the public safety may benefit from an alternative to adjudication that is noncriminal, reformatory and protective in nature.

"(3) Accordingly, the District of Columbia recognizes the appropriateness of alternatives to adjudication, which may include diversion programs and services, for certain juveniles who are in need of supervision or who are arrested for certain nonviolent offenses. The remedies and procedures provided herein shall not be in derogation of parental rights and responsibilities under existing laws.

**New Section
16-2305a**

ENROLLED ORIGINAL

New Section
16-2305b

"16-2305b. Preliminary probation conferences; adjustment process.

"(a) For the purposes of this section, the term:

"(1) "Adjustment process" means the process by which the Social Services Division and the Office of the Corporation Counsel may proceed where a determination is made that the filing of a delinquency or persons in need of supervision petition is not in the best interests of the child or public.

"(2) "Nonviolent offenses" means those offenses identified as such by the Office of the Corporation Counsel in an interagency agreement with the Social Services Division, but shall not include a "crime of violence" as defined in section 1(f) of 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, approved July 8, 1932 (47 Stat. 650; D.C. Code § 22-3201(f)), or possessory firearm offenses.

"(b) Where the Director of Social Services recommends, after a preliminary inquiry is conducted pursuant to D.C. Code § 16-2305 (a), that it is not in the best interests of the child or public to recommend the filing of a delinquency or persons in need of supervision petition, the Director of Social Services shall so recommend to the Office of the Corporation Counsel, and the Corporation Counsel shall make a determination of the suitability of the case for adjustment, which may include diversion. The Director of Social Services shall permit any participant who is represented by a lawyer to be accompanied by the lawyer at any preliminary conference.

"(c) In order to determine whether the case is suitable for adjustment, the Director of Social Services, in consultation with the Office of the Corporation Counsel, shall consider the following circumstances, among others:

"(1) The age of the child;

"(2) Whether the conduct allegedly involved:

"(A) An act or acts causing or threatening to cause death, substantial pain, or serious physical injury to another;

"(B) The use or knowing possession of a dangerous instrument or deadly weapon;

"(C) The use or threatened use of violence to compel a person to engage in sexual intercourse, deviant sexual intercourse, or sexual contact;

"(D) The use or threatened use of violence to obtain property;

"(E) The use or threatened use of deadly physical force with the intent to restrain the liberty of another;

"(F) The intentional starting of a fire or the causing of an explosion which resulted in damage to a building;

"(G) A serious risk to the welfare and safety of the community; or

"(H) An act which seriously endangered the safety of the child or another person;

"(3) Whether there is a substantial likelihood that the child will not appear at scheduled conferences with the Social Services Division or with an agency to which he or she

ENROLLED ORIGINAL

may be referred;

"(4) Whether there is a substantial likelihood that the child will not participate in the diversion programs or services developed and recommended by the Social Services Division or cooperate during the adjustment process;

"(5) Whether there is a substantial likelihood that in order to adjust the case successfully, the child would require services that could not be administered effectively in less than 6 months;

"(6) Whether there is a substantial likelihood that the child will, during the adjustment process:

"(A) Commit an act which, if committed by an adult, would be a crime;

or

"(B) Engage in conduct that endangers the physical or emotional health of the child or a member of the child's family or household; or

"(C) Harass the complainant, victim, or person seeking to have a delinquency petition filed, or a member of that person's family or household, where demonstrated by prior conduct or threats;

"(7) Whether there is pending another proceeding to determine whether the child is a child in need of supervision or a delinquent;

"(8) Whether there have been prior adjustments or adjournments in contemplation of dismissal in other delinquency proceedings;

"(9) Whether there has been a prior adjudication of the child as a delinquent child or child in need of supervision;

"(10) Whether there is a substantial likelihood that the adjustment process would not be successful unless the child is temporarily removed from his or her home and that such removal could not be accomplished without invoking the court process;

"(11) Whether a proceeding has been or will be instituted against another person for acting jointly with the child; and

"(12) Whether the juvenile case would otherwise have been petitioned by the Office of the Corporation Counsel.

"(d) At the preliminary inquiry, the Director of Social Services shall inform each person entitled to be present of the function and limitations of, and the alternatives to, the adjustment process, and that:

"(1) He or she has a right to participate in the adjustment process, which may include, but is not limited to, periodic drug testing, attendance at parenting classes, or participation in counseling, treatment, or educational programs;

"(2) The Social Services Division is not authorized to and cannot compel any person to appear at any conference, produce any papers, or visit any place absent court order;

"(3) The person seeking to have a delinquency petition filed is entitled to have access to the Office of the Corporation Counsel at any time for the purpose of requesting that a petition be filed;

ENROLLED ORIGINAL

"(4) The adjustment process may continue for a period of 6 months and may be extended for an additional six months upon written application to the Director of Social Services and the Office of the Corporation Counsel and approval thereof by both;

"(5) Statements made to the Social Services Division or the Office of the Corporation Counsel by the child or his or her parent shall not be admissible for any purpose during any subsequent court proceeding and are subject to the confidentiality provisions contained in this chapter; and

"(6) If the adjustment process is commenced and not successfully concluded, the persons participating therein may be notified orally or in writing of that fact by the Social Services Division, that the case will be referred to the Office of the Corporation Counsel and that oral notification must be confirmed in writing."

(c) A new section 16-2325a is added to read as follows:

"§ 16-2325a. Participation order.

New Section
16-2325a

"(a) In any proceedings under this chapter, the court may enter an order specifically requiring a parent or guardian to participate in the rehabilitation process of a juvenile, including, but not limited to, mandatory attendance at a juvenile proceeding, parenting class, counseling, treatment, or an education program.

"(b) The court may, when the court determines that it is in the best interests of the child, issue an order applicable to a parent or guardian of a child and the person with whom the child resides, if other than the child's parent or guardian. The order shall require the parent or guardian and the person with whom the child resides, if other than the parent or guardian, to be present at any juvenile proceeding or court ordered program concerning the child.

"(c) A person failing to comply with an order of participation without good cause may be found in civil contempt of court.

"(d) The court shall issue a bench warrant for any parent or guardian or person with whom the child resides, if other than the parent or guardian, who, without good cause, fails to appear at any juvenile proceeding or court ordered program.

"(e) For the purposes of this section, good cause for failing to appear shall include, but not be limited to, a situation where a parent, guardian, or person with whom the child resides:

"(1) Has an employment obligation that would result in the loss of employment if not complied with;

"(2) Does not have physical custody of the child and resides outside the District of Columbia; or

"(3) Resides in the District of Columbia, but is outside the District of Columbia at the time of the juvenile proceeding or court ordered program for reasons other than avoiding participation or appearance before the court, and participating or appearing in court will result in undue hardship to such parent or guardian.

"(f) It is the intent of this section that every parent or guardian whose child is the subject of a juvenile proceeding and any court ordered program under this chapter should attend any such proceeding or program as often as is practicable.

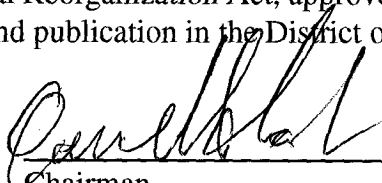
"(g) Nothing in this section shall be construed to create a right for any juvenile to have his or her parent or guardian present at any juvenile proceeding or court ordered program at which such juvenile is present."

Sec. 3. Fiscal impact statement.

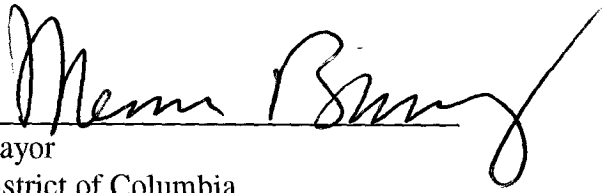
Enactment of this act should have minimal fiscal impact on the Office of the Corporation Counsel and the Superior Court of the District of Columbia.

Sec. 4. 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), 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 26, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-622

Docket No.

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 7-3-96

VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

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 Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Angie Ford
Secretary to the Council

July 19, 1996
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 7-17-96

VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT

BRAZIL, CHAVOUS, CROPP AND THOMAS

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
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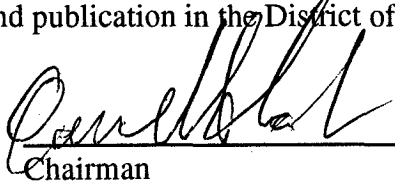
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Mayor
District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

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B11-622

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CHAVOUS

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X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Angela Ford
Secretary to the Council

July 19, 1996
Date

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