

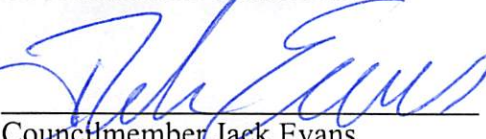


1 
2 Chairman Phil Mendelson


Councilmember Charles Allen

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6 Councilmember Anita Bonds

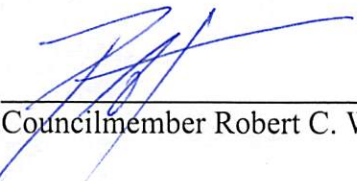

Councilmember Mary M. Cheh

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10 Councilmember Jack Evans


Councilmember David Grosso

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14 Councilmember Brianne Nadeau


Councilmember Brandon T. Todd

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18 Councilmember Robert C. White, Jr.

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22 A BILL
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27 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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32 To amend Title 16 of the District of Columbia Official Code to make civil protection orders only
33 available to intimate partners, household members, family members, and victims of sexual
34 assault and abuse or sex trafficking; make the inclusion of animal abuse consistent; expand
35 the ability of minors ages 12 to 16 to file civil protection orders; allow the court to extend
36 temporary protection orders in increments up to 28 days for good cause or for a longer
37 period with the consent of the parties; clarify the relief available for firearms and animal
38 protections; modify the duration of civil protection orders; establish a dedicated unit in the
39 Metropolitan Police Department to serve process in civil protection order cases; and create
40 new anti-stalking orders.

41
42 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
43 act may be cited as the "Intrafamily Offenses and Anti-Stalking Orders Amendment Act of 2018".

44 Sec. 2. Title 16 of the District of Columbia Official Code is amended as follows:

45 (a) Chapter 10 is amended as follows:

46 (1) Section 16-1001 is amended as follows:

47 (A) New paragraphs (5A) and (5B) are added to read as follows:

48 “(5A) “Family member” means a person to whom one is related by blood, adoption, legal
49 custody, marriage, or domestic partnership, or is the child of an intimate partner.

50 “(5B) “Household member” means a person with whom, in the past year, one has shared
51 both a mutual residence and a close relationship rendering application of the statute appropriate.
52 “Household member” does not include persons related solely by a landlord and tenant relationship.

53 (B) Paragraphs (6) and (7) are repealed.

54 (C) A new paragraph (6A) is added to read as follows:

55 “(6A) “Intimate partner” means a person to whom one is or was married; with whom one
56 is or was in a domestic partnership; with whom one has a child in common; or with whom one is,
57 was, or is seeking to be in a romantic, dating, or sexual relationship.”.

58 (D) Paragraph (8) is amended to read as follows:

59 “(8) “Intrafamily offense” means:

60 “(A) An act punishable as a criminal offense committed or threatened to be
61 committed by a person against an intimate partner, a household member, or a family member; or

62 “(B) An act punishable as cruelty to animals as defined in sections 1 and 2 of
63 Chapter 106 of the Acts of the Legislative Assembly, approved August 23, 1871 (D.C. Official
64 Code §§ 22-1001 and 22-1002), committed or threatened to be committed by a person against an
65 animal that belongs to or is in the household of an intimate partner or family member.”.

66 (E) Paragraph (10) is amended by striking the phrase “an Associate Judge,”
67 and inserting the phrase “an Associate Judge, a Senior Judge,” in its place.

68 (F) Paragraph (12) is amended to read as follows:

69 “(12) “Petitioner” means any person who files, or for whom is filed, a petition for civil
70 protection under this subchapter.”.

71 (2) Section 16-1003 is amended to read as follows:

72 “§ 16-1003. Petition for civil protection; minors; Attorney General.”.

73 “(a) A petitioner may file a petition for civil protection in the Domestic Violence Unit
74 against a respondent who has allegedly:

75 “(1) Committed or threatened to commit an intrafamily offense against the
76 petitioner;

77 “(2) Committed or threatened to commit sexual assault or sexual abuse against the
78 petitioner, regardless of the parties’ relationship; or

79 “(3) Used coercion to cause the petitioner to engage in a commercial sex act as
80 defined by section 101(4) of the Prohibition Against Human Trafficking Amendment Act of 2010,
81 effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)).

82 “(b) A minor’s parent, guardian, custodian, or other appropriate adult may file a petition
83 for civil protection on the minor’s behalf. In addition, a minor may file a petition for civil
84 protection as follows:

85 “(1) A minor who is 16 years of age or older may file a petition for civil protection
86 on the minor’s own behalf;

87 “(2) A minor who is at least 12 but less than 16 years of age and alleges an
88 intrafamily offense by an intimate partner or alleges a sexual assault or sexual abuse by a
89 respondent who does not have a significant relationship to the minor within the meaning of section
90 101(10) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C.

91 Official Code § 22-3001(10)), may file a petition for civil protection and participate in a hearing
92 to seek a temporary protection order without a parent, guardian, custodian, or other appropriate
93 adult acting on the minor’s behalf. Under these circumstances, the court may appoint an attorney
94 for the minor in accordance with § 16-1005(a-1)(4), if necessary, and if doing so will not unduly
95 delay the issuance or denial of the temporary protection order;

96 “(3) A minor who is at least 12 but less than 16 years of age and alleges an
97 intrafamily offense by a family member or alleges a sexual assault or sexual abuse by a respondent
98 who has a significant relationship to the minor within the meaning of section 101(10) of the Anti-
99 Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-
100 3001(10)), may petition for civil protection only if the minor’s parent, guardian, custodian, or other
101 appropriate adult files the petition on the minor’s behalf; and

102 “(4) A minor who is less than 12 years of age may petition for civil protection only
103 if the minor’s parent, guardian, custodian, or other appropriate adult files the petition on the
104 minor’s behalf.

105 “(c) A custodial parent, guardian, custodian, or other appropriate adult of a minor may not
106 file a petition for civil protection against the minor.

107 “(d) The Attorney General may provide individual legal representation to a petitioner, or
108 person authorized by this section to act on a petitioner’s behalf, who files a petition in accordance
109 with subsection (a) of this section. Whenever the Attorney General represents a petitioner under
110 subsection (a) of this section, the representation shall continue until the civil protection order
111 terminates or the Attorney General withdraws his or her appearance, whichever is earlier.

112 “(e) If a petitioner is unable to file a petition on the petitioner’s own behalf or with the
113 assistance of a parent, guardian, custodian, or other appropriate adult in accordance with

114 subsection (a) of this section, the Attorney General may file a petition for civil protection on the
115 petitioner’s behalf at the request of the petitioner, the petitioner’s representative, or a government
116 agency. When proceeding on a petition filed under this subsection, the Attorney General represents
117 the interests of the District of Columbia.”.

118 (3) Section 16-1004 is amended as follows:

119 (A) The section heading is amended by striking the phrase “notice;
120 temporary order.” and inserting the phrase “temporary protection order.” in its place.

121 (B) A new subsection (a-1) is added to read as follows:

122 “(a-1) A request for a temporary protection order may be heard ex parte and shall be granted
123 or denied after a hearing held on the same day that the petition is filed with the court. If the request
124 is made too late in the day to permit effective review, the order shall be granted or denied after a
125 hearing held on the next day of judicial business.”.

126 (C) Subsection (b) is amended to read as follows:

127 “(b) If, after a hearing on a request for a temporary protection order, the judicial officer
128 finds that the safety or welfare of the petitioner, petitioner’s household member, petitioner’s
129 animal, or an animal in petitioner’s household is immediately endangered by the respondent, the
130 judicial officer may issue, ex parte, a temporary protection order.

131 “(1) A temporary protection order shall remain in effect for an initial period not to
132 exceed 14 days; provided, that if the last day falls on a Saturday, Sunday, a day observed as a
133 holiday by the court, or a day on which weather or other conditions cause the court to be closed,
134 the temporary protection order shall remain in effect until the end of the next day on which the
135 court is open.

136 “(2) The court may extend a temporary protection order as necessary to complete
137 service and the hearing on the petition:

138 “(A) In 14-day increments;

139 “(B) In increments up to 28 days for good cause; or

140 “(C) For a longer period with the consent of both parties.

141 “(3) The court may modify or terminate a temporary protection order.

142 “(4) If a respondent fails to appear for a hearing on a petition for civil protection
143 after having been served with notice of the hearing, a petition, and a temporary protection order in
144 accordance with the Rules of the Superior Court of the District of Columbia, and the court enters
145 a civil protection order in accordance with section 16-1005, the temporary protection order shall
146 remain in effect until the respondent is served with the civil protection order or the civil protection
147 order expires, whichever occurs first.”.

148 (D) Subsection (c) is amended to read as follows:

149 (i) Paragraph (1) is amended by striking the word “next” and
150 inserting the word “first” in its place.

151 (ii) Paragraph (2) is amended by striking the word “will” and
152 inserting the word “shall” in its place.

153 (E) A new subsection (c-1) is added to read as follows:

154 “(c-1) A temporary protection order may include any of the relief set forth in section 16-
155 1005.”.

156 (F) Subsections (d) and (e) are repealed.

157 (4) Section 16-1005 is amended as follows:

158 (A) Subsection (a) is amended by striking the phrase “section 16-1004” and
159 inserting the phrase “section 16-1007” in its place.

160 (B) Subsection (a-1)(1) is amended by striking the phrase “section 16-
161 1003(c)” and inserting the phrase “section 16-1003(d)” in its place.

162 (C) Subsection (c) is amended as follows:

163 (i) By striking the phrase “against the petitioner or against
164 petitioner’s animal or an animal in petitioner’s household,” and inserting the phrase “against the
165 petitioner, the petitioner’s animal, or an animal in the petitioner’s household, or after receiving the
166 parties’ consent,” in its place.

167 (ii) Paragraph (1) is amended by striking the word “protected” and
168 inserting the word “specified” in its place.

169 (iii) Paragraph (2) is amended by striking the word “protected” and
170 inserting the word “specified” in its place.

171 (iv) Paragraphs (6) and (7) are amended to read as follows:

172 “(6) Awards temporary custody of a minor child or children of the parties; provided,
173 that if, after a contested hearing, the judicial officer finds by a preponderance of evidence that a
174 contestant for custody has committed an intrafamily offense, any determination that custody is to
175 be granted to the contestant who has committed the intrafamily offense must be supported by a
176 written statement by the judicial officer specifying factors and findings which support that
177 determination;

178 “(7) Awards visitation rights with appropriate restrictions to protect the safety of
179 the petitioner; provided, that in determining visitation arrangements after a contested hearing, if
180 the judicial officer finds by a preponderance of the evidence that the parent seeking visitation has

181 committed an intrafamily offense, the judicial officer may only award visitation if the judicial
182 officer finds that the child and custodial parent can be adequately protected from harm inflicted by
183 the parent who has committed the intrafamily offense and issues a written statement specifying
184 factors and findings that support the determination. The parent who has committed the intrafamily
185 offense has the burden of proving that visitation will not endanger the child or significantly impair
186 the child's emotional development;”.

187 (v) Paragraphs (10) and (10A) are amended to read as follows:

188 “(10) Directs the respondent to relinquish possession of any firearms or ammunition
189 and not to own, possess, purchase, receive, or attempt to purchase or receive a firearm or
190 ammunition while the protection order is in effect;

191 “(10A) In connection with an animal owned, possessed, leased, kept, or held by the
192 petitioner, or residing in the residence or household of the petitioner:

193 “(A) Directs the care, custody, or control of the animal; and

194 “(B) Orders the respondent to stay away from the animal and refrain from
195 taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming,
196 or otherwise disposing of the animal.”.

197 (4) Subsection (c-1) is repealed.

198 (D) Subsection (d) is amended to read as follows:

199 “(d) A protection order issued pursuant to this section shall remain in effect for an initial
200 period not to exceed 2 years.”.

201 (E) A new subsection (d-1) is added to read as follows:

202 “(d-1) A judicial officer may, upon motion of any party to the original proceeding, extend,
203 vacate, or modify an order for good cause shown. A finding that an order has been violated is not

204 necessary for a finding of good cause to modify or extend an order. The judicial officer may extend
205 an order for the period of time the judicial officer deems appropriate, but if that period is longer
206 than 2 years, the judicial officer must find:

207 “(1) That the respondent has violated the civil protection order;

208 “(2) That the petitioner has previously obtained a civil protection order against the
209 same respondent; or

210 “(3) Other compelling circumstances related to the petitioner’s safety or well-
211 being.”.

212 (F) Subsection (f) is amended by striking the phrase “punishable as
213 contempt” and inserting the phrase “punishable as criminal contempt” in its place.

214 (G) Subsection (i) is amended by striking the phrase “Orders entered” and
215 inserting the phrase “Violations of protection orders entered” in its place.

216 (5) A new section 16-1007 is added to read as follows:

217 “§ 16–1007. Notice to parties.

218 “(a) Pursuant to the Rules of the Superior Court of the District of Columbia, the respondent,
219 and in cases where the respondent is a minor, the respondent’s custodial parent, guardian, or
220 custodian, shall be served with notice of the hearing and an order to appear, a copy of the petition,
221 and a temporary protection order, if entered. The court may also cause notice to be served on others
222 whose presence at the hearing is necessary to the proper disposition of the matter.

223 “(b) If a minor has filed a petition for civil protection without a parent, guardian, or
224 custodian, and if the minor is residing with a parent, guardian, or custodian, the court shall send a
225 copy of any order issued pursuant to section 16-1004(b) and notice of the hearing to that parent,
226 guardian, or custodian, unless, in the discretion of the court, notification of that parent, guardian,

227 or custodian would be contrary to the best interests of the minor. If the court does not send notice
228 to the parent, guardian, or custodian with whom the minor resides, the court may, in its discretion,
229 send notice to any other parent, guardian, custodian, or other appropriate adult.

230 “(c) The notice of hearing shall notify the respondent that if the respondent does not attend
231 the hearing, the court may issue an order against the respondent that could last up to 2 years.

232 “(d) A respondent is deemed to have been served and no additional proof of service is
233 required for enforcement of an order if the respondent is present before the court when the order
234 is issued or if the respondent is served with the order in open court.

235 “(e) At the request of the petitioner, the Metropolitan Police Department shall attempt to
236 serve civil process in any case filed under this subchapter that has an address for service in the
237 District of Columbia. A special unit that consists of at least 6 officers is established for the
238 exclusive purpose of performing these duties.”.

239 (b) A new Chapter 10A is added to read as follows:

240 “Chapter 10A. Anti-Stalking Orders.

241 “16-1061. Definitions.

242 “16-1062. Complaint; interim order.

243 “16-1063. Hearing; evidence; anti-stalking order.

244 “16-1064. Notice to defendant.

245 “16-1065. Continuances.”.

246 “Chapter 10A. Anti-Stalking Orders.

247 “§ 16-1061. Definitions.

248 “For the purposes of this chapter, the term:

249 “(1) “Civil Division” means the Civil Division of the Superior Court of the District
250 of Columbia.

251 “(2) “Court” means the Superior Court of the District of Columbia.

252 “(3) “Defendant” means any person against whom a complaint for an anti-stalking
253 order is filed under this chapter.

254 “(4) “Judicial officer” means the Chief Judge, a Senior Judge, an Associate Judge,
255 or a Magistrate Judge of the court.

256 “(5) “Minor” means a person under 18 years of age.

257 “(6) “Plaintiff” means any person who files a complaint for an anti-stalking order
258 under this chapter.

259 “(7) “Stalking” or “stalked” means any course of conduct that is prohibited by
260 section 503 of the Omnibus Public Safety and Justice Amendment Act of 2009, effective
261 December 10, 2009 (D.C. Law 18-88; D.C. Official Code § 22-3133).”.

262 “§ 16-1062. Complaint; notice; interim order.

263 “(a) A person may file a complaint for an anti-stalking order and a request for an interim
264 anti-stalking order in the Civil Division against another person who, within 90 days prior to the
265 date of filing, has allegedly stalked that person. A minor’s parent, guardian, custodian, or other
266 appropriate adult may file a complaint for an anti-stalking order on the minor’s behalf. A minor
267 who is 16 years of age or older may file a complaint for an anti-stalking order on the minor’s own
268 behalf.

269 “(b) Upon a filing of a complaint for an anti-stalking order, the Civil Division shall set the
270 matter for hearing. If the complaint includes a request for an interim anti-stalking order and the

271 court grants the interim anti-stalking order, the matter shall be set for hearing on the final anti-
272 stalking order within 14 days. Otherwise, the matter must be set within 21 days.

273 “(c) A request for an interim anti-stalking order may be heard ex parte and shall be granted
274 or denied after a hearing held on the same day that the complaint is filed with the court. If the
275 complaint is filed too late in the day to permit effective review, the order shall be granted or denied
276 after a hearing held on the next day of judicial business.

277 “(d) If, after a hearing on a request for an interim anti-stalking order, the judicial officer
278 finds that the safety or welfare of the plaintiff, plaintiff’s household member, plaintiff’s animal, or
279 an animal in plaintiff’s household is immediately endangered by the defendant, the judicial officer
280 may issue, ex parte, an interim anti-stalking order.

281 “(1) An interim anti-stalking order shall remain in effect for an initial period not to
282 exceed 14 days; provided, that if the last day falls on a Saturday, Sunday, a day observed as a
283 holiday by the court, or a day on which weather or other conditions cause the court to be closed,
284 the interim anti-stalking order shall remain in effect until the end of the next day on which the
285 court is open.

286 “(2) The court may extend an interim anti-stalking order as necessary to complete
287 service and the hearing on the complaint:

288 “(A) In 14-day increments;

289 “(B) In increments up to 28 days for good cause; or

290 “(C) For a longer period with the consent of both parties.

291 “(3) The court may modify or terminate an interim anti-stalking order.

292 “(4) If a defendant fails to appear for a hearing on a complaint for an anti-stalking
293 order after having been served with a summons and an interim anti-stalking order in accordance

294 with the Rules of the Superior Court of the District of Columbia, and the court enters a final anti-
295 stalking order in accordance with § 16-1063, the interim anti-stalking order shall remain in effect
296 until the defendant is served with the final anti-stalking order or the final anti-stalking order
297 expires, whichever occurs first.

298 “(e) An interim anti-stalking order issued pursuant to this section shall include a notice
299 explaining that:

300 “(1) If the day on which the interim anti-stalking order is set to expire falls on a
301 Saturday, Sunday, a day observed as a holiday by the court, or a day on which weather or other
302 conditions cause the court to be closed, the interim anti-stalking order shall remain in effect until
303 the end of the next day on which the court is open; and

304 “(2) If the defendant fails to appear for a hearing on a complaint for an anti-stalking
305 order, after having been served, and a final anti-stalking order is entered, the interim anti-stalking
306 order shall remain in effect until the defendant is served with the final anti-stalking order or the
307 final anti-stalking order expires, whichever occurs first.

308 “(f) An interim anti-stalking order may include any of the relief set forth in § 16-1063.

309 “§ 16-1063. Hearing; evidence; anti-stalking order.

310 “(a) Individuals served with a summons in accordance with § 16-1064 shall appear at the
311 hearing.

312 “(b) If, after a hearing, the judicial officer finds by a preponderance of the evidence that
313 within 90 days prior to the complaint being filed, the defendant stalked the plaintiff, or after
314 receiving the parties’ consent, a judicial officer may issue a final anti-stalking order that:

315 “(1) Directs the defendant to refrain from committing or threatening to commit
316 criminal offenses against the plaintiff and other specified persons;

317 “(2) Requires the defendant to stay away from or have no contact with the plaintiff
318 and any other specified persons or locations;

319 “(3) Directs the defendant to relinquish possession or use of certain personal
320 property owned jointly by the parties or by the plaintiff individually;

321 “(4) Awards costs and attorney fees;

322 “(5) Orders the Metropolitan Police Department to take such action as the judicial
323 officer deems necessary to enforce its orders;

324 “(6) Directs the defendant to relinquish possession of any firearms or ammunition
325 and not to own, possess, purchase, receive, or attempt to purchase or receive a firearm or
326 ammunition while the anti-stalking order is in effect;

327 “(7) In connection with an animal owned, possessed, leased, kept, or held by the
328 plaintiff, or residing in the residence or household of the plaintiff:

329 “(A) Directs the care, custody, or control of the animal; and

330 “(B) Orders the defendant to stay away from the animal and refrain from
331 taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming,
332 or otherwise disposing of the animal;

333 “(8) Directs the defendant to perform or refrain from other actions as may be
334 appropriate to the effective resolution of the matter; or

335 “(9) Combines 2 or more of the preceding provisions.

336 “(c) An anti-stalking order issued pursuant to this section shall remain in effect for an initial
337 period not to exceed 2 years.

338 “(d) A judicial officer may, upon motion of any party to the original proceeding, extend,
339 vacate, or modify an order for good cause shown. A finding that an order has been violated is not

340 necessary for a finding of good cause to modify or extend an order. The judicial officer may
341 extend an order for the period of time the judicial officer deems appropriate, but if that period is
342 longer than 2 years, the judicial officer must find:

343 “(1) That the defendant has violated the anti-stalking order;

344 “(2) That the plaintiff has previously obtained an anti-stalking order against the
345 same defendant; or

346 “(3) Other compelling circumstances related to plaintiff’s safety or well-being.

347 “(e) Any final order issued pursuant to this section and any order granting or denying a
348 motion to extend, modify, or vacate such order is appealable.

349 “(f) Violation of any interim or final order issued under this chapter or defendant’s failure
350 to appear as required by subsection (a) of this section shall be punishable as contempt. Upon
351 conviction, criminal contempt shall be punished by a fine of not more than the amount set forth in
352 the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-
353 317; D.C. Official Code § 22-3571.01), or imprisonment for not more than 180 days, or both.

354 “(g) Enforcement proceedings for an offense under subsection (f) of this section in which
355 the defendant is a child as defined by section 1(3) of the Prevention of Child Abuse and Neglect
356 Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 16-2301(3)),
357 shall be governed by subchapter I of Chapter 23 of this title.

358 “(h) For purposes of establishing a violation under subsection (g) of this section, an oral or
359 written statement made by a person located outside the District of Columbia to a person located in
360 the District of Columbia by means of telecommunication, mail, or any other method of
361 communication will be deemed to be made in the District of Columbia.

362 “(i) Violations of anti-stalking orders entered with the consent of the defendant but without
363 an admission that the conduct occurred shall be punishable under subsection (f) or (g) of this
364 section.

365 “§ 16-1064. Notice to defendant.

366 “(a) Pursuant to the Rules of the Superior Court of the District of Columbia, the defendant
367 shall be served with the summons, a copy of the complaint, and an interim anti-stalking order, if
368 entered.

369 “(b) A summons under this section shall notify the defendant that if the defendant does not
370 attend the hearing, the court may issue an order against the defendant that could last up to 2 years.

371 “(c) A defendant is deemed to have been served and no additional proof of service is
372 required for enforcement of an order if the defendant is present before the court when the order is
373 issued or if the defendant is served with the order in open court.

374 “(d) At the request of the plaintiff, the Metropolitan Police Department shall attempt to
375 serve civil process in any case filed under this chapter that has an address for service in the District
376 of Columbia.

377 “§ 16-1065. Continuances.

378 “(a) Either party may request a continuance of the hearing, which the court shall grant on
379 a showing of good cause. The request may be made in writing before or at the hearing or orally at
380 the hearing. The court may also grant a continuance on its own motion.

381 “(b) If the court grants a continuance, any interim anti-stalking order that has been granted
382 shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court.
383 In granting a continuance, the court may modify or terminate an interim anti-stalking order.”.

384 Sec. 3. Fiscal impact statement.

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

388 Sec. 4. Effective date.

389 This act shall take effect following approval by the Mayor (or in the event of veto by the
390 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
391 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
392 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
393 Columbia Register.