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2 Chairman Phil Mendelson


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6 Councilmember Anita Bonds


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10 Councilmember Vincent C. Gray

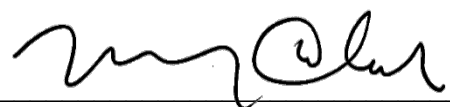
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14 Councilmember Kenyan R. McDuffie

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18 Councilmember Brooke Pinto


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22 Councilmember Brandon T. Todd


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26 Councilmember Trayon White, Sr.

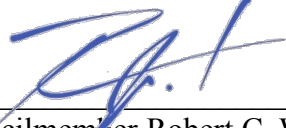

Councilmember Charles Allen


Councilmember Mary M. Cheh


Councilmember David Grosso


Councilmember Brianne K. Nadeau


Councilmember Elissa Silverman


Councilmember Robert C. White, Jr.

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29 A BILL

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33 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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38 To provide, on an emergency basis, for comprehensive policing and justice reform for District
39 residents and visitors, and for other purposes.
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75 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
76 act may be cited as the “Comprehensive Policing and Justice Reform Second Emergency
77 Amendment Act of 2020”.

78 TITLE I. IMPROVING POLICE ACCOUNTABILITY AND TRANSPARENCY

79 SUBTITLE A. PROHIBITING THE USE OF NECK RESTRAINTS

80 Sec. 101. The Limitation on the Use of the Chokehold Act of 1985, effective January 25,
81 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.01 *et seq.*), is amended as follows:

82 (a) Section 2 (D.C. Official Code § 5-125.01) is amended to read as follows:

83 “Sec. 2. The Council of the District of Columbia finds and declares that law enforcement
84 and special police officer use of neck restraints constitutes the use of lethal and excessive force.
85 This force presents an unnecessary danger to the public. On May 25, 2020, Minneapolis Police
86 Department officer Derek Chauvin murdered George Floyd by applying a neck restraint to Floyd
87 with his knee for 8 minutes and 46 seconds. Hundreds of thousands, if not millions, of people in
88 cities and states across the world, including in the District, have taken to the streets to peacefully
89 protest injustice, racism, and police brutality against Black people and other people of color. Police
90 brutality is abhorrent and does not reflect the District’s values. It is the intent of the Council in the
91 enactment of this act to unequivocally ban the use of neck restraints by law enforcement and
92 special police officers.”.

93 (b) Section 3 (D.C. Official Code § 5-125.02) is amended as follows:

94 (1) Paragraph (1) is repealed.

95 (2) Paragraph (2) is repealed.

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

97 “(3) “Neck restraint” means the use of any body part or object to attempt to control
98 or disable a person by applying pressure against the person’s neck, including the trachea or carotid
99 artery, with the purpose, intent, or effect of controlling or restricting the person’s movement or
100 restricting their blood flow or breathing.”.

101 (c) Section 4 (D.C. Official Code § 5-125.03) is amended to read as follows:

102 “Sec. 4. Unlawful use of neck restraints by law enforcement officers and special police
103 officers.

104 “(a) It shall be unlawful for:

105 “(1) Any law enforcement officer or special police officer (“officer”) to apply a
106 neck restraint; and

107 “(2) Any officer who applies a neck restraint and any officer who is able to observe
108 another officer’s application of a neck restraint to fail to:

109 “(A) Immediately render, or cause to be rendered, first aid on the person on
110 whom the neck restraint was applied; or

111 “(B) Immediately request emergency medical services for the person on
112 whom the neck restraint was applied.

113 “(b) Any officer who violates the provisions of subsection (a) of this section shall be fined
114 no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment
115 Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or
116 incarcerated for no more than 10 years, or both.”.

117 Sec. 102. Section 3 of the Federal Law Enforcement Officer Cooperation Act of 1999,
118 effective May 9 2000 (D.C. Law 13-100; D.C. Official Code § 5-302), is amended by striking the
119 phrase “trachea and carotid artery holds” and inserting the phrase “neck restraints” in its place.

120 SUBTITLE B. IMPROVING ACCESS TO BODY-WORN CAMERA VIDEO
121 RECORDINGS

122 Sec. 103. Section 3004 of the Body-Worn Camera Regulation and Reporting Requirements
123 Act of 2015, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 5-116.33), is
124 amended as follows:

125 (a) Subsection (a)(3) is amended by striking the phrase “interactions;” and inserting the
126 phrase “interactions, and the results of those internal investigations, including any discipline
127 imposed;” in its place.

128 (b) New subsections (c), (d), and (e) are added to read as follows:

129 “(c)(1) Notwithstanding any other law:

130 “(A) Within 5 business days after a request from the Chairperson of the
131 Council Committee with jurisdiction over the Metropolitan Police Department, the Metropolitan
132 Police Department shall provide unredacted copies of the requested body-worn camera recordings
133 to the Chairperson. Such body-worn camera recordings shall not be publicly disclosed by the
134 Chairperson or the Council;

135 “(B) The Mayor:

136 “(i) Shall, except as provided in paragraph (2) of this subsection:

137 “(I) Within 5 business days after an officer-involved death
138 or the serious use of force, publicly release the names and body-worn camera recordings of all
139 officers who committed the officer-involved death or serious use of force; and

140 “(II) By August 15, 2020, publicly release the names and
141 body-worn camera recordings of all officers who have committed an officer-involved death since
142 the Body-Worn Camera Program was launched on October 1, 2014; and

143 “(ii) May, on a case-by-case basis in matters of significant public
144 interest and after consultation with the Chief of Police, the United States Attorney's Office for the

145 District of Columbia, and the Office of the Attorney General, publicly release any other body-
146 worn camera recordings that may not otherwise be releasable pursuant to a FOIA request.

147 “(2)(A) The Mayor shall not release a body-worn camera recording pursuant to
148 paragraph (1)(B)(i) of this subsection if the following persons inform the Mayor, orally or in
149 writing, that they do not consent to its release:

150 “(i) For a body-worn camera recording of an officer-involved death,
151 the decedent’s next of kin; and

152 “(ii) For a body-worn camera recording of a serious use of force, the
153 individual against whom the serious use of force was used, or if the individual is a minor or unable
154 to consent, the individual’s next of kin.

155 “(B)(i) In the event of a disagreement between the persons who must
156 consent to the release of a body-worn camera recording pursuant to subparagraph (A) of this
157 paragraph, the Mayor shall seek a resolution in the Superior Court of the District of Columbia.

158 “(ii) The Superior Court of the District of Columbia shall order the
159 release of the body-worn camera recording if it finds that the release is in the interests of justice.

160 “(d) Before publicly releasing a body-worn camera recording of an officer-involved death,
161 the Metropolitan Police Department shall:

162 “(1) Consult with an organization with expertise in trauma and grief on best
163 practices for creating an opportunity for the decedent’s next of kin to view the body-worn camera
164 recording in advance of its release;

165 “(2) Notify the decedent’s next of kin of its impending release, including the date
166 when it will be released; and

167 “(3) Offer the decedent’s next of kin the opportunity to view the body-worn camera
168 recording privately in a non-law enforcement setting in advance of its release, and if the next of
169 kin wish to so view the body-worn camera recording, facilitate its viewing.

170 “(e) For the purposes of this subsection, the term:

171 “(1) “FOIA” means Title II of the District of Columbia Administrative Procedure
172 Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*);

173 “(2) “Next of kin” shall mean the priority for next of kin as provided in
174 Metropolitan Police Department General Order 401.08, or its successor directive; and

175 “(3) “Serious use of force” shall have the same meaning as that term is defined in
176 MPD General Order 901.07, or its successor directive.”.

177 Sec. 104. Chapter 39 of Title 24 of the District of Columbia Municipal Regulations is
178 amended as follows:

179 (a) Section 3900 is amended as follows:

180 (1) Subsection 3900.9 is amended to read as follows:

181 “3900.9. Members may not review their BWC recordings or BWC recordings that have
182 been shared with them to assist in initial report writing.”.

183 (2) Subsection 3900.10 is amended to read as follows:

184 “3900.10. (a) Notwithstanding any other law, the Mayor:

185 “(1) Shall, except as provided in paragraph (b) of this subsection:

186 “(A) Within 5 business days after an officer-involved death or the
187 serious use of force, publicly release the names and body-worn camera recordings of all officers
188 who committed the officer-involved death or serious use of force; and

189 “(B) By August 15, 2020, publicly release the names and body-worn
190 camera recordings of all officers who have committed an officer-involved death since the Body-
191 Worn Camera Program was launched on October 1, 2014; and

192 “(2) May, on a case-by-case basis in matters of significant public interest
193 and after consultation with the Chief of Police, the United States Attorney's Office for the District
194 of Columbia, and the Office of the Attorney General, publicly release any other body-worn camera
195 recordings that may not otherwise be releasable pursuant to a FOIA request.

196 “(b)(1) The Mayor shall not release a body-worn camera recording pursuant to
197 paragraph (a)(1) of this subsection if the following persons inform the Mayor, orally or in writing,
198 that they do not consent to its release:

199 “(A) For a body-worn camera recording of an officer-involved
200 death, the decedent’s next of kin; and

201 “(B) For a body-worn camera recording of a serious use of force, the
202 individual against whom the serious use of force was used, or if the individual is a minor or is
203 unable to consent, the individual’s next of kin.

204 “(2)(A) In the event of a disagreement between the persons who must
205 consent to the release of a body-worn camera recording pursuant to subparagraph (1) of this
206 subsection, the Mayor shall seek a resolution in the Superior Court of the District of Columbia.

207 “(B) The Superior Court of the District of Columbia shall order the
208 release of the body-worn camera recording if it finds that the release is in the interests of justice.

209 “(c) Before publicly releasing a body-worn camera recording of an officer-involved
210 death, the Metropolitan Police Department shall:

211 “(1) Consult with an organization with expertise in trauma and grief on best
212 practices for creating an opportunity for the decedent’s next of kin to view the body-worn camera
213 recording in advance of its release;

214 “(2) Notify the decedent’s next of kin of its impending release, including
215 the date when it will be released; and

216 “(3) Offer the decedent’s next of kin the opportunity to view the body-worn
217 camera recording privately in a non-law enforcement setting in advance of its release, and if the
218 next of kin wish to so view the body-worn camera recording, facilitate its viewing.”.

219 (b) Section 3901.2 is amended by adding a new paragraph (a-1) to read as follows:

220 “(a-1) Recordings related to a request from or investigation by the Chairperson of
221 the Council Committee with jurisdiction over the Metropolitan Police Department;”.

222 (c) Section 3902.4 is amended to read as follows:

223 “3902.4. Notwithstanding any other law, within 5 business days after a request from the
224 Chairperson of the Council Committee with jurisdiction over the Metropolitan Police Department,
225 the Department shall provide unredacted copies of the requested BWC recordings to the
226 Chairperson. Such body-worn camera recordings shall not be publicly disclosed by the
227 Chairperson or the Council.”.

228 (d) Section 3999.1 is amended by inserting definitions between the definitions of
229 “metadata” and “subject” to read as follows:

230 ““Next of kin” shall mean the priority for next of kin as provided in MPD General Order
231 401.08, or its successor directive.

232 ““Serious use of force” shall have the same meaning as that term is defined in MPD General
233 Order 901.07, or its successor directive.”.

234 SUBTITLE C. OFFICE OF POLICE COMPLAINTS REFORMS

235 Sec. 105. The Office of Citizen Complaint Review Establishment Act of 1998, effective
236 March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 *et seq.*), is amended as follows:

237 (a) Section 5(a) (D.C. Official Code § 5-1104(a)) is amended by striking the phrase “There
238 is established a Police Complaints Board (“Board”). The Board shall be composed of 5 members,
239 one of whom shall be a member of the MPD, and 4 of whom shall have no current affiliation with
240 any law enforcement agency.” and inserting the phrase “There is established a Police Complaints
241 Board (“Board”). The Board shall be composed of 9 members, which shall include one member
242 from each Ward and one at-large member, none of whom, after the expiration of the term of the
243 currently serving member of the MPD, shall be affiliated with any law enforcement agency.”.

244 (b) Section 8 (D.C. Official Code § 5-1107) is amended as follows:

245 (1) A new subsection (g-1) is added to read as follows:

246 “(g-1)(1) If the Executive Director discovers evidence of abuse or misuse of police powers
247 that was not alleged by the complainant in the complaint, the Executive Director may:

248 “(A) Initiate the Executive Director’s own complaint against the subject
249 police officer; and

250 “(B) Take any of the actions described in subsection (g)(2) through (6) of
251 this section.

252 “(2) The authority granted pursuant to paragraph (1) of this subsection shall include
253 circumstances in which the subject police officer failed to:

254 “(A) Intervene in or subsequently report any use of force incident in which
255 the subject police officer observed another law enforcement officer, including an MPD officer,

256 utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order
257 901.07, its successor directive, or a similar local or federal directive; or

258 “(B) Immediately report to their supervisor any violations of the rules and
259 regulations of the MPD committed by any other MPD officer, and each instance of their use of
260 force or a use of force committed by another MPD officer, pursuant to MPD General Order 201.26,
261 or any successor directive.”.

262 (2) Subsection (h) is amended by striking the phrase “subsection (g)” and inserting
263 the phrase “subsection (g) or (g-1)” in its place.

264 SUBTITLE D. USE OF FORCE REVIEW BOARD MEMBERSHIP EXPANSION

265 Sec. 106. Use of Force Review Board; membership.

266 (a) There is established a Use of Force Review Board (“Board”), which shall review uses
267 of force as set forth by the Metropolitan Police Department in its written directives.

268 (b) The Board shall consist of the following 13 voting members, and may also include non-
269 voting members at the Mayor’s discretion:

270 (1) An Assistant Chief selected by the Chief of Police, who shall serve as the
271 Chairperson of the Board;

272 (2) The Commanding Official, Special Operations Division, Homeland Security
273 Bureau;

274 (3) The Commanding Official, Criminal Investigations Division, Investigative
275 Services Bureau;

276 (4) The Commanding Official, Metropolitan Police Academy;

277 (5) A Commander or Inspector assigned to the Patrol Services Bureau;

278 (6) The Commanding Official, Recruiting Division;

279 (7) The Commanding Official, Court Liaison Division;

280 (8) Three civilian members appointed by the Mayor, pursuant to section 2(e) of the
281 Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-
282 523.01(e)), with the following qualifications and no current or prior affiliation with law
283 enforcement:

284 (A) One member who has personally experienced the use of force by a law
285 enforcement officer;

286 (B) One member of the District of Columbia Bar in good standing; and

287 (C) One District resident community member;

288 (9) Two civilian members appointed by the Council with the following
289 qualifications and no current or prior affiliation with law enforcement:

290 (A) One member with subject matter expertise in criminal justice policy;

291 and

292 (B) One member with subject matter expertise in law enforcement oversight
293 and the use of force; and

294 (10) The Executive Director of the Office of Police Complaints.

295 Sec. 107. Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law
296 2-142; D.C. Official Code § 1-523.01(e)), is amended as follows:

297 (a) Paragraph (38) is amended by striking the phrase “; and” and inserting a semicolon in
298 its place.

299 (b) Paragraph (39) is amended by striking the period and inserting the phrase “; and” in its
300 place.

301 (c) A new paragraph (40) is added to read as follows:

302 “(40) Use of Force Review Board, established by section 106 of the Comprehensive
303 Policing and Justice Reform Second Emergency Amendment Act of 2020, passed on emergency
304 basis on July 7, 2020 (Enrolled version of Bill 23-XXX).”.

305 SUBTITLE E. ANTI-MASK LAW REPEAL

306 Sec. 108. The Anti-Intimidation and Defacing of Public or Private Property Criminal
307 Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312 *et*
308 *seq.*), is amended as follows:

309 (a) Section 4 (D.C. Official Code § 22-3312.03) is repealed.

310 (b) Section 5(b) (D.C. Official Code § 22-3312.04(b)) is amended by striking the phrase
311 “or section 4 shall be” and inserting the phrase “shall be” in its place.

312 Sec. 109. Section 23-581(a-3) of the District of Columbia Official Code is amended by
313 striking the phrase “sections 22-3112.1, 22-3112.2, and 22-3112.3” and inserting the phrase
314 “sections 22-3112.1 and 22-3112.2” in its place.

315 SUBTITLE F. LIMITATIONS ON CONSENT SEARCHES

316 Sec. 110. Subchapter II of Chapter 5 of Title 23 of the District of Columbia Official Code
317 is amended by adding a new section 23-526 to read as follows:

318 “§ 23–526. Limitations on consent searches.

319 “(a) In cases where a search is based solely on the subject’s consent to that search, and is
320 not executed pursuant to a warrant or conducted pursuant to an applicable exception to the warrant
321 requirement, sworn members of District Government law enforcement agencies shall:

322 “(1) Prior to the search of a person, vehicle, home, or property:

323 “(A) Explain, using plain and simple language delivered in a calm
324 demeanor, that the subject of the search is being asked to voluntarily, knowingly, and intelligently
325 consent to a search;

326 “(B) Advise the subject that:

327 “(i) A search will not be conducted if the subject refuses to provide
328 consent to the search; and

329 “(ii) The subject has a legal right to decline to consent to the search;

330 “(C) Obtain consent to search without threats or promises of any kind being
331 made to the subject;

332 “(D) Confirm that the subject understands the information communicated
333 by the officer; and

334 “(E) Use interpretation services when seeking consent to conduct a search
335 of a person:

336 “(i) Who cannot adequately understand or express themselves in
337 spoken or written English; or

338 “(ii) Who is deaf or hard of hearing.

339 “(2) If the sworn member is unable to obtain consent from the subject, refrain from
340 conducting the search.

341 “(b) The requirements of subsection (a) of this section shall not apply to searches executed
342 pursuant to a warrant or conducted pursuant to an applicable exception to the warrant requirement.

343 “(c)(1) If a defendant moves to suppress any evidence obtained in the course of the search
344 for an offense prosecuted in the Superior Court of the District of Columbia, the court shall consider

345 an officer’s failure to comply with the requirements of this section as a factor in determining the
346 voluntariness of the consent.

347 “(2) There shall be a presumption that a search was nonconsensual if the evidence
348 of consent, including the warnings required in subsection (a), is not captured on body-worn camera
349 or provided in writing.

350 “(d) Nothing in this section shall be construed to create a private right of action.”.

351 SUBTITLE G. MANDATORY CONTINUING EDUCATION EXPANSION;
352 RECONSTITUTING THE POLICE OFFICERS STANDARDS AND TRAINING BOARD

353 Sec. 111. The Metropolitan Police Department Application, Appointment, and Training
354 Requirements of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-
355 107.01 *et seq.*), is amended as follows:

356 (a) Section 203(b) (D.C. Official Code § 5-107.02(b)) is amended as follows:

357 (1) Paragraph (2) is amended by striking the phrase “biased-based policing” and
358 inserting the phrase “biased-based policing, racism, and white supremacy” in its place.

359 (2) Paragraph (3) is amended to read as follows:

360 “(3) Limiting the use of force and employing de-escalation tactics;”.

361 (3) Paragraph (4) is amended to read as follows:

362 “(4) The prohibition on the use of neck restraints;”.

363 (4) Paragraph (5) is amended by striking the phrase “; and” and inserting a
364 semicolon in its place.

365 (5) Paragraph (6) is amended by striking the period and inserting a semicolon in its
366 place.

367 (6) New paragraphs (7) and (8) are added to read as follows:

368 “(7) Obtaining voluntary, knowing, and intelligent consent from the subject of a
369 search, when that search is based solely on the subject’s consent; and

370 “(8) The duty of a sworn officer to report, and the method for reporting, suspected
371 misconduct or excessive use of force by a law enforcement official that a sworn member observes
372 or that comes to the sworn member’s attention, as well as any governing District laws and
373 regulations and Department written directives.”.

374 (b) Section 204 (D.C. Official Code § 5-107.03) is amended as follows:

375 (1) Subsection (a) is amended by striking the phrase “the District of Columbia
376 Police” and inserting the phrase “the Police” in its place.

377 (2) Subsection (b) is amended as follows:

378 (A) The lead-in language is amended by striking the phrase “11 persons”
379 and inserting the phrase “15 persons” in its place.

380 (B) A new paragraph (2A) is added to read as follows:

381 “(2A) Executive Director of the Office of Police Complaints or the Executive
382 Director’s designee;”.

383 (C) Paragraph (3) is amended to read as follows:

384 “(3) The Attorney General for the District of Columbia or the Attorney General’s
385 designee;”.

386 (D) Paragraph (8) is amended by striking the period and inserting the phrase
387 “; and” in its place.

388 (E) Paragraph (9) is amended to read as follows:

389 “(9) Five community representatives appointed by the Mayor, one each with
390 expertise in the following areas:

391 “(A) Oversight of law enforcement;
392 “(B) Juvenile justice reform;
393 “(C) Criminal defense;
394 “(D) Gender-based violence or LGBTQ social services, policy, or
395 advocacy; and
396 “(E) Violence prevention or intervention.”.

397 (3) Subsection (i) is amended by striking the phrase “promptly after the
398 appointment and qualification of its members” and inserting the phrase “by September 1, 2020” in
399 its place.

400 (c) Section 205(a) (D.C. Official Code § 5-107.04(a)) is amended by adding a new
401 paragraph (9A) to read as follows:

402 “(9A) If the applicant has prior service with another law enforcement or public
403 safety agency in the District or another jurisdiction, information on any alleged or sustained
404 misconduct or discipline imposed by that law enforcement or public safety agency;”.

405 SUBTITLE H. IDENTIFICATION OF MPD OFFICERS DURING FIRST
406 AMENDMENT ASSEMBLIES AS LOCAL LAW ENFORCEMENT

407 Sec. 112. Section 109 of the First Amendment Assemblies Act of 2004, effective April 13,
408 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.09), is amended as follows:

409 (a) Designate the existing text as subsection (a).

410 (b) Add a new subsection (b) to read as follows:

411 “(b) During a First Amendment assembly, the uniforms and helmets of officers policing
412 the assembly shall prominently identify the officers’ affiliation with local law enforcement.”.

413 SUBTITLE I. PRESERVING THE RIGHT TO JURY TRIAL

414 Sec. 113. Section 16-705(b)(1) of the District of Columbia Official Code is amended as
415 follows:

416 (a) Subparagraph (A) is amended by striking the phrase “; or” and inserting a semicolon in
417 its place.

418 (b) Subparagraph (B) is amended by striking the phrase “; and” and inserting the phrase “;
419 or” in its place.

420 (c) A new subparagraph (C) is added to read as follows:

421 “(C)(i) The defendant is charged with an offense under:

422 “(I) Section 806(a)(1) of An Act To establish a code of law
423 for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22–
424 404(a)(1));

425 “(II) Section 432a of the Revised Statutes of the District of
426 Columbia (D.C. Official Code § 22–405.01); or

427 “(III) Section 2 of An Act To confer concurrent jurisdiction
428 on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat.
429 193; D.C. Official Code § 22–407); and

430 “(ii) The person who is alleged to have been the victim of the offense
431 is a law enforcement officer, as that term is defined in section 432(a) of the Revised Statutes of
432 the District of Columbia (D.C. Official Code § 22-405(a)); and”.

433 SUBTITLE J. REPEAL OF FAILURE TO ARREST CRIME

434 Sec. 114. Section 400 of the Revised Statutes of the District of Columbia (D.C. Official
435 Code § 5-115.03), is repealed.

436 SUBTITLE K. AMENDING MINIMUM STANDARDS FOR POLICE OFFICERS

437 Sec. 115. Section 202 of the Omnibus Police Reform Amendment Act of 2000, effective
438 October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.01), is amended by adding a new
439 subsection (f) to read as follows:

440 “(f) An applicant shall be ineligible for appointment as a sworn member of the
441 Metropolitan Police Department if the applicant:

442 “(1) Was previously determined by a law enforcement agency to have committed
443 serious misconduct, as determined by the Chief by General Order;

444 “(2) Was previously terminated or forced to resign for disciplinary reasons from
445 any commissioned or recruit or probationary position with a law enforcement agency; or

446 “(3) Previously resigned from a law enforcement agency to avoid potential,
447 proposed, or pending adverse disciplinary action or termination.”.

448 SUBTITLE L. POLICE ACCOUNTABILITY AND COLLECTIVE BARGAINING
449 AGREEMENTS

450 Sec. 116. Section 1708 of the District of Columbia Government Comprehensive Merit
451 Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.08),
452 is amended by adding a new subsection (c) to read as follows:

453 “(c)(1) All matters pertaining to the discipline of sworn law enforcement personnel shall
454 be retained by management and not be negotiable.

455 “(2) This subsection shall apply to any collective bargaining agreements entered
456 into with the Fraternal Order of Police/Metropolitan Police Department Labor Committee after
457 September 30, 2020.”.

458 SUBTITLE M. OFFICER DISCIPLINE REFORMS

459 Sec. 117. Section 502 of the Omnibus Public Safety Agency Reform Amendment Act of
460 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031), is amended
461 as follows:

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

463 (1) Paragraph (1) is amended by striking the phrase “subsection (b) of this section”
464 and inserting the phrase “paragraph (1A) of this subsection and subsection (b) of this section” in
465 its place.

466 (2) A new paragraph (1A) is added to read as follows:

467 “(1A) If the act or occurrence allegedly constituting cause involves the serious use
468 of force or indicates potential criminal conduct by a sworn member or civilian employee of the
469 Metropolitan Police Department, the period for commencing a corrective or adverse action under
470 this subsection shall be 180 days, not including Saturdays, Sundays, or legal holidays, after the
471 date that the Metropolitan Police Department had notice of the act or occurrence allegedly
472 constituting cause.”.

473 (3) Paragraph (2) is amended by striking the phrase “paragraph (1)” and inserting
474 the phrase “paragraphs (1) and (1A)” in its place.

475 (b) Subsection (b) is amended by striking the phrase “the 90-day period” and inserting the
476 phrase “the 90-day or 180-day period, as applicable,” in its place.

477 Sec. 118. Section 6-A1001.5 of Chapter 10 of Title 6 of the District of Columbia Municipal
478 Regulations is amended by striking the phrase “reduce the penalty” and inserting the phrase
479 “reduce or increase the penalty” in its place.

480 SUBTITLE N. USE OF FORCE REFORMS

481 Sec. 119. Use of deadly force.

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

483 (1) “Deadly force” means any force that is likely or intended to cause serious bodily
484 injury or death.

485 (2) “Deadly weapon” means any object, other than a body part or stationary object,
486 that in the manner of its actual, attempted, or threatened use, is likely to cause serious bodily injury
487 or death.

488 (3) “Serious bodily injury” means extreme physical pain, illness, or impairment of
489 physical condition, including physical injury, that involves:

490 (A) A substantial risk of death;

491 (B) Protracted and obvious disfigurement;

492 (C) Protracted loss or impairment of the function of a bodily member or
493 organ; or

494 (D) Protracted loss of consciousness.

495 (b) A law enforcement officer shall not use deadly force against a person unless:

496 (1) The law enforcement officer reasonably believes that deadly force is
497 immediately necessary to protect the law enforcement officer or another person, other than the
498 subject of the use of deadly force, from the threat of serious bodily injury or death;

499 (2) The law enforcement officer’s actions are reasonable, given the totality of the
500 circumstances; and

501 (3) All other options have been exhausted or do not reasonably lend themselves to
502 the circumstances.

503 (c) A trier of fact shall consider:

504 (1) The reasonableness of the law enforcement officer's belief and actions from the
505 perspective of a reasonable law enforcement officer; and

506 (2) The totality of the circumstances, which shall include:

507 (A) Whether the subject of the use of deadly force:

508 (i) Possessed or appeared to possess a deadly weapon; and

509 (ii) Refused to comply with the law enforcement officer's lawful
510 order to surrender an object believed to be a deadly weapon prior to the law enforcement officer
511 using deadly force;

512 (B) Whether the law enforcement officer engaged in de-escalation measures
513 prior to the use of deadly force, including taking cover, waiting for back-up, trying to calm the
514 subject of the use of force, or using non-deadly force prior to the use of deadly force; and

515 (C) Whether any conduct by the law enforcement officer prior to the use of
516 deadly force increased the risk of a confrontation resulting in deadly force being used.

517 SUBTITLE O. RESTRICTIONS ON THE PURCHASE AND USE OF MILITARY
518 WEAPONRY

519 Sec. 120. Limitations on military weaponry acquired by District law enforcement agencies.

520 (a) Beginning in Fiscal Year 2021, District law enforcement agencies shall not acquire the
521 following property through any program operated by the federal government:

522 (1) Ammunition of .50 caliber or higher;

523 (2) Armed or armored aircraft or vehicles;

524 (3) Bayonets;

525 (4) Explosives or pyrotechnics, including grenades;

526 (5) Firearm mufflers or silencers;

527 (6) Firearms of .50 caliber or higher;

528 (7) Firearms, firearm accessories, or other objects, designed or capable of launching
529 explosives or pyrotechnics, including grenade launchers; and

530 (8) Remotely piloted, powered aircraft without a crew aboard, including drones.

531 (b)(1) If a District law enforcement agency requests property through a program operated
532 by the federal government, the District law enforcement agency shall publish notice of the request
533 on a publicly accessible website within 14 days after the date of the request.

534 (2) If a District law enforcement agency acquires property through a program
535 operated by the federal government, the District law enforcement agency shall publish notice of
536 the acquisition on a publicly accessible website within 14 days after the date of the acquisition.

537 (c) District law enforcement agencies shall disgorge any property described in subsection
538 (a) of this section that the agencies currently possess within 180 days after the effective date of
539 this act.

540 SUBTITLE P. LIMITATIONS ON THE USE OF INTERNATIONALLY BANNED
541 CHEMICAL WEAPONS, RIOT GEAR, AND LESS-LETHAL PROJECTILES

542 Sec. 121. The First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C.
543 Law 15-352; D.C. Official Code § 5-331.01 *et seq.*), is amended as follows:

544 (a) Section 102 (D.C. Official Code § 5-331.02) is amended as follows:

545 (1) Paragraphs (1) and (2) are redesignated as paragraphs (2) and (4) respectively.

546 (2) A new paragraph (1) is added to read as follows:

547 “(1) “Chemical irritant” means tear gas or any chemical that can rapidly produce
548 sensory irritation or disabling physical effects in humans, which disappear within a short time
549 following termination of exposure, or any substance prohibited by the Convention on the

550 Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on
551 their Destruction, effective April 29, 1997.”.

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

553 “(3) “Less-lethal projectiles” means any munition that may cause bodily injury or
554 death through the transfer of kinetic energy and blunt force trauma. The term “less-lethal
555 projectiles” includes rubber or foam-covered bullets and stun grenades.”.

556 (b) Section 116 (D.C. Official Code § 5-331.16) is amended to read as follows:

557 “Sec. 116. Use of riot gear and riot tactics at First Amendment assemblies.

558 “(a)(1) No officers in riot gear may be deployed in response to a First Amendment
559 assembly unless there is an immediate risk to officers of significant bodily injury. Any deployment
560 of officers in riot gear:

561 “(A) Shall be consistent with the District’s policy on First Amendment
562 assemblies; and

563 “(B) May not be used as a tactic to disperse a First Amendment assembly.

564 “(2) Following any deployment of officers in riot gear in response to a First
565 Amendment assembly, the commander at the scene shall make a written report to the Chief of
566 Police within 48 hours, and that report shall be available to the public.

567 “(b)(1) Chemical irritants shall not be used by MPD to disperse a First Amendment
568 assembly.

569 “(2) The Mayor shall request that any federal law enforcement agency operating in
570 the District refrain from the use of chemical irritants to disperse a First Amendment assembly.

571 “(c)(1) Less-lethal projectiles shall not be used by MPD to disperse a First Amendment
572 assembly.

573 “(2) The Mayor shall request that any federal law enforcement agency operating in
574 the District refrain from the use of less-lethal projectiles to disperse a First Amendment
575 assembly.”.

576 SUBTITLE Q. POLICE REFORM COMMISSION

577 Sec. 122. Police Reform Commission.

578 (a) There is established, supported by the Council’s Committee of the Whole, a Police
579 Reform Commission (“Commission”) to examine policing practices in the District and provide
580 evidence-based recommendations for reforming and revisioning policing in the District.

581 (b)(1) The Commission shall be comprised of 20 representatives from among the following
582 entities:

- 583 (A) Non-law enforcement District government agencies;
- 584 (B) The Office of the Attorney General for the District of Columbia;
- 585 (C) Criminal and juvenile justice reform organizations;
- 586 (D) Black Lives Matter DC;
- 587 (E) Educational institutions;
- 588 (F) Parent-led advocacy organizations;
- 589 (G) Student- or youth-led advocacy organizations;
- 590 (H) Returning citizen organizations;
- 591 (I) Victim services organizations;
- 592 (J) Social services organizations;
- 593 (K) Mental and behavioral health organizations;
- 594 (L) Small businesses;
- 595 (M) Faith-based organizations; and

596 (N) Advisory Neighborhood Commissions.

597 (2) The Chairman of the Council shall:

598 (A) Appoint the Commission representatives no later than July 22, 2020;

599 and

600 (B) Designate a representative who is not employed by the District
601 government as the Commission's Chairperson.

602 (c)(1) The Commission shall submit its recommendations in a report to the Mayor and
603 Council by December 31, 2020.

604 (2) The report required by paragraph (1) of this subsection shall include analyses
605 and recommendations on the following topics:

606 (A) The role of sworn and special police officers in District schools;

607 (B) Alternatives to police responses to incidents, such as community-based,
608 behavioral health, or social services co-responders;

609 (C) Police discipline;

610 (D) The integration of conflict resolution strategies and restorative justice
611 practices into policing; and

612 (E) The provisions of the Comprehensive Policing and Justice Reform
613 Second Emergency Amendment Act of 2020, passed on emergency basis on July 7, 2020 (Enrolled
614 version of Bill 23-_____).

615 (d) The Commission shall sunset upon the delivery of its report or on December 31, 2020,
616 whichever is later.

617 SUBTITLE R. METRO TRANSIT POLICE DEPARTMENT OVERSIGHT AND
618 ACCOUNTABILITY

619 Sec. 123. Section 76 of Article XVI of Title III of the Washington Metropolitan Area
620 Transit Regulation Compact, approved November 6, 1966 (80 Stat. 1324; D.C. Official Code § 9-
621 1107.01(76)), is amended as follows:

622 (a) Subsection (f) is amended by adding a new paragraph (1A) to read as follows:

623 “(1A) prohibit the use of enforcement quotas to evaluate, incentivize, or discipline
624 members, including with regard to the number of arrests made or citations or warnings issued;”.

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

626 “(i)(1) The Authority shall establish a Police Complaints Board to review complaints filed
627 against the Metro Transit Police.

628 “(2) The Police Complaints Board shall comprise eight members, two civilian
629 members appointed by each Signatory, and two civilian members appointed by the federal
630 government.

631 “(3) Members of the Police Complaints Board shall not be Authority employees
632 and shall have no current affiliation with law enforcement.

633 “(4) Members of the Police Complaints Board shall serve without compensation
634 but may be reimbursed for necessary expenses incurred as incident to the performance of their
635 duties.

636 “(5) The Police Complaints Board shall appoint a Chairperson and Vice-
637 Chairperson from among its members.

638 “(6) Four members of the Police Complaints Board shall constitute a quorum, and
639 no action by the Police Complaints Board shall be effective unless a majority of the Police
640 Complaints Board present and voting, which majority shall include at least one member from each
641 Signatory, concur therein.

642 “(7) The Police Complaints Board shall meet at least monthly and keep minutes of
643 its meetings.

644 “(8) The Police Complaints Board, through its Chairperson, may employ qualified
645 persons or utilize the services of qualified volunteers, as necessary, to perform its work, including
646 the investigation of complaints.

647 “(9) The duties of the Police Complaints Board shall include:

648 “(A) Adopting rules and regulations governing its meetings, minutes, and
649 internal processes; and

650 “(B) With respect to the Metro Transit Police, reviewing:

651 “(i) The number, type, and disposition of citizen complaints
652 received, investigated, sustained, or otherwise resolved;

653 “(ii) The race, national origin, gender, and age of the complainant
654 and the subject officer or officers;

655 “(iii) The proposed and actual discipline imposed on an officer as a
656 result of any sustained citizen complaint;

657 “(iv) All use of force incidents, serious use of force incidents, and
658 serious physical injury incidents; and

659 “(v) Any in-custody death.

660 “(10) The Police Complaints Board shall have the authority to receive complaints
661 against members of the Metro Transit Police, which shall be reduced to writing and signed by the
662 complainant, that allege abuse or misuse of police powers by such members, including:

663 “(A) Harassment;

664 “(B) Use of force;

665 “(C) Use of language or conduct that is insulting, demeaning, or
666 humiliating;

667 “(D) Discriminatory treatment based upon a person’s race, color, religion,
668 national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or
669 expression, family responsibilities, physical disability, matriculation, political affiliation, source
670 of income, or place of residence or business;

671 “(E) Retaliation against a person for filing a complaint; and

672 “(F) Failure to wear or display required identification or to identify oneself
673 by name and badge number when requested to do so by a member of the public.

674 “(11) If the Metro Transit Police receives a complaint containing subject matter that
675 is covered by paragraph (10) of this subsection, the Metro Transit Police shall transmit the
676 complaint to the Police Complaints Board within 3 business days after receipt.

677 “(12) The Police Complaints Board shall have timely and complete access to
678 information and supporting documentation specifically related to the Police Complaints Board’s
679 duties and authority under paragraphs (9) and (10) of this subsection.

680 “(13) The Police Complaints Board shall have the authority to dismiss, conciliate,
681 mediate, investigate, adjudicate, or refer for further action to the Metro Transit Police a complaint
682 received under paragraph (10) of this subsection.

683 “(14)(A) If deemed appropriate by the Police Complaints Board, and if the parties
684 agree to participate in a conciliation process, the Police Complaints Board may attempt to resolve
685 a complaint by conciliation.

686 “(B) The conciliation of a complaint shall be evidenced by a written
687 agreement signed by the parties which may provide for oral apologies or assurances, written

688 undertakings, or any other terms satisfactory to the parties. No oral or written statements made in
689 conciliation proceedings may be used as a basis for any discipline or recommended discipline
690 against a subject police officer or officers or in any civil or criminal litigation.

691 “(15) If the Police Complaints Board refers the complaint to mediation, the Board
692 shall schedule an initial mediation session with a mediator. The mediation process may continue
693 as long as the mediator believes it may result in the resolution of the complaint. No oral or written
694 statement made during the mediation process may be used as a basis for any discipline or
695 recommended discipline of the subject police officer or officers, nor in any civil or criminal
696 litigation, except as otherwise provided by the rules of the court or the rules of evidence.

697 “(16) If the Police Complaints Board refers a complaint for investigation, the Board
698 shall assign an investigator to investigate the complaint. When the investigator completes the
699 investigation, the investigator shall summarize the results of the investigation in an investigative
700 report which, along with the investigative file, shall be transmitted to the Board, which may order
701 an evidentiary hearing.

702 “(17) The Police Complaints Board may, after an investigation, assign a complaint
703 to a complaint examiner, who shall make written findings of fact regarding all material issues of
704 fact, and shall determine whether the facts found sustain or do not sustain each allegation of
705 misconduct. If the complaint examiner determines that one or more allegations in the complaint is
706 sustained, the Police Complaints Board shall transmit the entire complaint file, including the merits
707 determination of the complaint examiner, to the Metro Transit Police for appropriate action.

708 “(18) Employees of the Metro Transit Police shall cooperate fully with the Police
709 Complaints Board in the investigation and adjudication of a complaint. An employee of the Metro

710 Transit Police shall not retaliate, directly or indirectly, against a person who files a complaint under
711 this subsection.

712 “(19) When, in the determination of the Police Complaints Board, there is reason
713 to believe that the misconduct alleged in a complaint or disclosed by an investigation of a
714 complaint may be criminal in nature, the Police Complaints Board shall refer the matter to the
715 appropriate authorities for possible criminal prosecution, along with a copy of all of the Police
716 Complaints Board’s files relevant to the matter being referred; provided, that the Police
717 Complaints Board shall make a record of each referral, and ascertain and record the disposition of
718 each matter referred and, if the appropriate authorities decline in writing to prosecute, the Police
719 Complaints Board shall resume its processing of the complaint.

720 “(20) Within 60 days before the end of each fiscal year, the Police Complaints
721 Board shall transmit to the Board and the Signatories an annual report of its operations, including
722 any policy recommendations.

723 TITLE II. BUILDING SAFE AND JUST COMMUNITIES

724 SUBTITLE A. RESTORE THE VOTE

725 Sec. 201. The District of Columbia Election Code of 1955, approved August 12, 1955 (69
726 Stat. 669; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

727 (a) Section 2(2) (D.C. Official Code § 1–1001.02(2)) is amended as follows:

728 (1) Subparagraph (C) is amended by striking the semicolon and inserting the phrase
729 “; and” in its place.

730 (2) Subparagraph (D) is repealed.

731 (b) Section 5(a) (D.C. Official Code § 1-1001.05(a)) is amended by adding new paragraphs
732 (9B) and (9C) to read as follows:

733 “(9B) In advance of any applicable voter registration or absentee ballot submission
734 deadlines, provide, to every qualified elector in the Department of Corrections’ care or custody,
735 and, beginning January 1, 2021, endeavor to provide to every qualified elector in the Bureau of
736 Prisons’ care or custody:

737 “(A) A voter registration form;

738 “(B) A voter guide;

739 “(C) Educational materials about the importance of voting and the right of
740 an individual currently incarcerated or with a criminal record to vote in the District; and

741 “(D) Without first requiring an absentee ballot application to be submitted,
742 an absentee ballot;

743 “(9C) Beginning January 1, 2021, upon receiving information pursuant to section
744 7(k)(3), (4), or (4A) from the Superior Court of the District of Columbia, the United States District
745 Court for the District of Columbia, or the Bureau of Prisons, notify a qualified elector incarcerated
746 for a felony of the qualified elector’s right to vote;”.

747 (c) Section 7(k) (D.C. Official Code § 1–1001.07(k)) is amended as follows:

748 (1) Paragraph (1) is amended by striking the phrase “registrant, upon notification
749 of a registrant’s incarceration for a conviction of a felony” and inserting the phrase “registrant,” in
750 its place.

751 (2) A new paragraph (4A) is added to read as follows:

752 “(4A) Beginning on January 1, 2021, at least monthly, the Board shall request from
753 the Bureau of Prisons the name, location of incarceration, and contact information for each
754 qualified elector in the Bureau of Prisons’ care or custody.”.

755 Sec. 202. Section 8 of An Act To create a Department of Corrections in the District of
756 Columbia, effective April 26, 2019 (D.C. Law 22-309; D.C. Official Code § 24-211.08), is
757 amended by adding a new subsection (b-1) to read as follows:

758 “(b-1) Within 10 business days after the effective date of the Comprehensive Policing and
759 Justice Reform Second Emergency Amendment Act of 2020, passed on emergency basis on July
760 7, 2020 (Enrolled version of Bill 23-_____) (“act”), the Department shall notify eligible
761 individuals in its care or custody of their voting rights pursuant to section 201 of the act.”.

762 TITLE III. REPEALS; APPLICABILITY; FISCAL IMPACT STATEMENT;
763 EFFECTIVE DATE

764 Sec. 301. Repeals.

765 The Comprehensive Policing and Justice Reform Emergency Amendment Act of 2020,
766 passed on emergency basis on June 9, 2020 (Enrolled version of Bill 23-774), is repealed.

767 Sec. 302. Applicability.

768 (a) Section 110 shall apply as of August 15, 2020.

769 (b) Section 123 shall apply after the enactment of concurring legislation by the State of
770 Maryland and the Commonwealth of Virginia, the signing and execution of the legislation by the
771 Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval by
772 the United States Congress.

773 (c) Section 301 shall apply as of July 7, 2020.

774 Sec. 303. Fiscal impact statement.

775 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
776 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
777 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

778 Sec. 304. Effective date.

779 This act shall take effect following approval by the Mayor (or in the event of veto by the
780 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
781 90 days, as provided for emergency acts of the Council of the District of Columbia in section
782 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
783 D.C. Official Code § 1-204.12(a)).