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A BILL
23-826

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide, on a temporary basis, for comprehensive policing and justice reform for District residents and visitors, and for other purposes.

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45

46 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

47 act may be cited as the “Comprehensive Policing and Justice Reform Second Temporary

48 Amendment Act of 2020”.

49 **TITLE I. IMPROVING POLICE ACCOUNTABILITY AND TRANSPARENCY**

50 **SUBTITLE A. PROHIBITING THE USE OF NECK RESTRAINTS**

51 Sec. 101. The Limitation on the Use of the Chokehold Act of 1985, effective January 25,

52 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.01 *et seq.*), is amended as follows:

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

54 “Sec. 2. The Council of the District of Columbia finds and declares that law enforcement

55 and special police officer use of neck restraints constitutes the use of lethal and excessive force.

56 This force presents an unnecessary danger to the public. On May 25, 2020, Minneapolis Police

57 Department officer Derek Chauvin murdered George Floyd by applying a neck restraint to Floyd

58 with his knee for 8 minutes and 46 seconds. Hundreds of thousands, if not millions, of people in
59 cities and states across the world, including in the District, have taken to the streets to peacefully
60 protest injustice, racism, and police brutality against Black people and other people of color. Police
61 brutality is abhorrent and does not reflect the District’s values. It is the intent of the Council in the
62 enactment of this act to unequivocally ban the use of neck restraints by law enforcement and
63 special police officers.”.

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

65 (1) Paragraph (1) is repealed.

66 (2) Paragraph (2) is repealed.

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

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

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

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

75 “(a) It shall be unlawful for:

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

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

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

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

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

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

91 **SUBTITLE B. IMPROVING ACCESS TO BODY-WORN CAMERA VIDEO**
92 **RECORDINGS**

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

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

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

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

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

106 “(B) The Mayor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

150 (a) Section 3900 is amended as follows:

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

152 “3900.9. Members may not review their BWC recordings or BWC recordings that have
153 been shared with them to assist in initial report writing.”.

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

155 “3900.10. (a) Notwithstanding any other law, the Mayor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

194 “3902.4. Notwithstanding any other law, within 5 business days after a request from the
195 Chairperson of the Council Committee with jurisdiction over the Metropolitan Police Department,
196 the Department shall provide unredacted copies of the requested BWC recordings to the
197 Chairperson. Such body-worn camera recordings shall not be publicly disclosed by the
198 Chairperson or the Council.”.

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

201 ““Next of kin” shall mean the priority for next of kin as provided in MPD General Order
202 401.08, or its successor directive.

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

205 SUBTITLE C. OFFICE OF POLICE COMPLAINTS REFORMS

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

208 (a) Section 5(a) (D.C. Official Code § 5-1104(a)) is amended by striking the phrase “There
209 is established a Police Complaints Board (“Board”). The Board shall be composed of 5 members,
210 one of whom shall be a member of the MPD, and 4 of whom shall have no current affiliation with
211 any law enforcement agency.” and inserting the phrase “There is established a Police Complaints
212 Board (“Board”). The Board shall be composed of 9 members, which shall include one member

213 from each Ward and one at-large member, none of whom, after the expiration of the term of the
214 currently serving member of the MPD, shall be affiliated with any law enforcement agency.”.

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

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

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

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

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

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

225 “(A) Intervene in or subsequently report any use of force incident in which
226 the subject police officer observed another law enforcement officer, including an MPD officer,
227 utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order
228 901.07, its successor directive, or a similar local or federal directive; or

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

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

235 SUBTITLE D. USE OF FORCE REVIEW BOARD MEMBERSHIP EXPANSION

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

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

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

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

243 (2) The Commanding Official, Special Operations Division, Homeland Security
244 Bureau;

245 (3) The Commanding Official, Criminal Investigations Division, Investigative
246 Services Bureau;

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

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

249 (6) The Commanding Official, Recruiting Division;

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

251 (8) Three civilian members appointed by the Mayor, pursuant to section 2(e) of the
252 Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-

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253 523.01(e)), with the following qualifications and no current or prior affiliation with law
254 enforcement:

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

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

258 (C) One District resident community member;

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

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

262 and

263 (B) One member with subject matter expertise in law enforcement oversight

264 and the use of force; and

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

266 Sec. 107. Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law
267 2-142; D.C. Official Code § 1-523.01(e)), is amended as follows:

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

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

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

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

276 SUBTITLE E. ANTI-MASK LAW REPEAL

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

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

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

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

286 SUBTITLE F. LIMITATIONS ON CONSENT SEARCHES

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

289 “§ 23–526. Limitations on consent searches.

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

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

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

297 “(B) Advise the subject that:

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

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

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

303 “(D) Confirm that the subject understands the information communicated
304 by the officer; and

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

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

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

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

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

314 “(c)(1) If a defendant moves to suppress any evidence obtained in the course of the search
315 for an offense prosecuted in the Superior Court of the District of Columbia, the court shall consider
316 an officer’s failure to comply with the requirements of this section as a factor in determining the
317 voluntariness of the consent.

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

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

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

324 Sec. 111. The Metropolitan Police Department Application, Appointment, and Training
325 Requirements of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-
326 107.01 *et seq.*), is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

352 “(2A) Executive Director of the Office of Police Complaints or the Executive
353 Director’s designee;”.

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

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

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

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

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

362 “(A) Oversight of law enforcement;

363 “(B) Juvenile justice reform;

364 “(C) Criminal defense;

365 “(D) Gender-based violence or LGBTQ social services, policy, or
366 advocacy; and

367 “(E) Violence prevention or intervention.”.

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

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

373 “(9A) If the applicant has prior service with another law enforcement or public
374 safety agency in the District or another jurisdiction, information on any alleged or sustained
375 misconduct or discipline imposed by that law enforcement or public safety agency;”.

376 SUBTITLE H. IDENTIFICATION OF MPD OFFICERS DURING FIRST
377 AMENDMENT ASSEMBLIES AS LOCAL LAW ENFORCEMENT

378 Sec. 112. Section 109 of the First Amendment Assemblies Act of 2004, effective April 13,
379 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.09), is amended as follows:

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

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

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

384 SUBTITLE I. PRESERVING THE RIGHT TO JURY TRIAL

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

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

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

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

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

393 “(I) Section 806(a)(1) of An Act To establish a code of law
394 for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22–
395 404(a)(1));

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

398 “(III) Section 2 of An Act To confer concurrent jurisdiction
399 on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat.
400 193; D.C. Official Code § 22–407); and

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

404 **SUBTITLE J. REPEAL OF FAILURE TO ARREST CRIME**

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

407 **SUBTITLE K. AMENDING MINIMUM STANDARDS FOR POLICE OFFICERS**

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

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

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

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

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

419 SUBTITLE L. POLICE ACCOUNTABILITY AND COLLECTIVE BARGAINING
420 AGREEMENTS

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

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

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

429 SUBTITLE M. OFFICER DISCIPLINE REFORMS

430 Sec. 117. Section 502 of the Omnibus Public Safety Agency Reform Amendment Act of
431 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031), is amended
432 as follows:

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

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

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

438 “(1A) If the act or occurrence allegedly constituting cause involves the serious use
439 of force or indicates potential criminal conduct by a sworn member or civilian employee of the
440 Metropolitan Police Department, the period for commencing a corrective or adverse action under
441 this subsection shall be 180 days, not including Saturdays, Sundays, or legal holidays, after the
442 date that the Metropolitan Police Department had notice of the act or occurrence allegedly
443 constituting cause.”.

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

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

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

451 SUBTITLE N. USE OF FORCE REFORMS

452 Sec. 119. Use of deadly force.

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

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

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

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

461 (A) A substantial risk of death;

462 (B) Protracted and obvious disfigurement;

463 (C) Protracted loss or impairment of the function of a bodily member or
464 organ; or

465 (D) Protracted loss of consciousness.

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

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

470 (2) The law enforcement officer's actions are reasonable, given the totality of the
471 circumstances; and

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

474 (c) A trier of fact shall consider:

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

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

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

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

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

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

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

488 SUBTITLE O. RESTRICTIONS ON THE PURCHASE AND USE OF MILITARY
489 WEAPONRY

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

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

- 493 (1) Ammunition of .50 caliber or higher;
- 494 (2) Armed or armored aircraft or vehicles;
- 495 (3) Bayonets;
- 496 (4) Explosives or pyrotechnics, including grenades;
- 497 (5) Firearm mufflers or silencers;
- 498 (6) Firearms of .50 caliber or higher;
- 499 (7) Firearms, firearm accessories, or other objects, designed or capable of launching
500 explosives or pyrotechnics, including grenade launchers; and
- 501 (8) Remotely piloted, powered aircraft without a crew aboard, including drones.

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

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

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

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

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

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

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

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

518 “(1) “Chemical irritant” means tear gas or any chemical that can rapidly produce
519 sensory irritation or disabling physical effects in humans, which disappear within a short time
520 following termination of exposure, or any substance prohibited by the Convention on the
521 Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on
522 their Destruction, effective April 29, 1997.”.

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

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

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

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

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

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

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

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

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

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

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

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

547 SUBTITLE Q. POLICE REFORM COMMISSION

548 Sec. 122. Police Reform Commission.

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

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

- 554 (A) Non-law enforcement District government agencies;
- 555 (B) The Office of the Attorney General for the District of Columbia;
- 556 (C) Criminal and juvenile justice reform organizations;
- 557 (D) Black Lives Matter DC;
- 558 (E) Educational institutions;
- 559 (F) Parent-led advocacy organizations;
- 560 (G) Student- or youth-led advocacy organizations;
- 561 (H) Returning citizen organizations;
- 562 (I) Victim services organizations;
- 563 (J) Social services organizations;

564 (K) Mental and behavioral health organizations;

565 (L) Small businesses;

566 (M) Faith-based organizations; and

567 (N) Advisory Neighborhood Commissions.

568 (2) The Chairman of the Council shall:

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

570 and

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

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

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

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

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

580 (C) Police discipline;

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

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

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

588 SUBTITLE R. METRO TRANSIT POLICE DEPARTMENT OVERSIGHT AND
589 ACCOUNTABILITY

590 Sec. 123. Section 76 of Article XVI of Title III of the Washington Metropolitan Area
591 Transit Regulation Compact, approved November 6, 1966 (80 Stat. 1324; D.C. Official Code § 9-
592 1107.01(76)), is amended as follows:

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

594 “(1A) prohibit the use of enforcement quotas to evaluate, incentivize, or discipline
595 members, including with regard to the number of arrests made or citations or warnings issued;”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

628 “(iv) All use of force incidents, serious use of force incidents, and
629 serious physical injury incidents; and

630 “(v) Any in-custody death.

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

634 “(A) Harassment;

635 “(B) Use of force;

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

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

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

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

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

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

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

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

657 “(B) The conciliation of a complaint shall be evidenced by a written
658 agreement signed by the parties which may provide for oral apologies or assurances, written
659 undertakings, or any other terms satisfactory to the parties. No oral or written statements made in
660 conciliation proceedings may be used as a basis for any discipline or recommended discipline
661 against a subject police officer or officers or in any civil or criminal litigation.

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

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

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

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

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

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

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

694 **TITLE II. BUILDING SAFE AND JUST COMMUNITIES**

695 **SUBTITLE A. RESTORE THE VOTE**

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

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

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

701 (2) Subparagraph (D) is repealed.

702 (b) Section 5(a) (D.C. Official Code § 1-1001.05(a)) is amended by adding new paragraphs
703 (9B) and (9C) to read as follows:

704 “(9B) In advance of any applicable voter registration or absentee ballot submission
705 deadlines, provide, to every qualified elector in the Department of Corrections’ care or custody,
706 and, beginning January 1, 2021, endeavor to provide to every qualified elector in the Bureau of
707 Prisons’ care or custody:

708 “(A) A voter registration form;

709 “(B) A voter guide;

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

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

714 “(9C) Beginning January 1, 2021, upon receiving information pursuant to section
715 7(k)(3), (4), or (4A) from the Superior Court of the District of Columbia, the United States District
716 Court for the District of Columbia, or the Bureau of Prisons, notify a qualified elector incarcerated
717 for a felony of the qualified elector’s right to vote;”.

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

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

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

723 “(4A) Beginning on January 1, 2021, at least monthly, the Board shall request from
724 the Bureau of Prisons the name, location of incarceration, and contact information for each
725 qualified elector in the Bureau of Prisons’ care or custody.”.

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

729 “(b-1) Within 10 business days after the effective date of the Comprehensive Policing and
730 Justice Reform Second Emergency Amendment Act of 2020, passed on emergency basis on July
731 7, 2020 (Enrolled version of Bill 23-_____) (“act”), the Department shall notify eligible
732 individuals in its care or custody of their voting rights pursuant to section 201 of the act.”.

733 TITLE III. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE

734 Sec. 301. Applicability.

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

736 (b) Section 123 shall apply after the enactment of concurring legislation by the State of
737 Maryland and the Commonwealth of Virginia, the signing and execution of the legislation by the

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738 Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval by
739 the United States Congress.

740 Sec. 302. Fiscal impact statement.

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

744 Sec. 303. Effective date.

745 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
746 the Mayor, action by the Council to override the veto), a 60-day period of congressional review as
747 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24,
748 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
749 Columbia Register.

750 (b) This act shall expire after 225 days of its having taken effect.