



COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20004

CHRISTINA HENDERSON
Councilmember, At-Large
Chairperson, Committee on Health

Committee Member
Hospital and Health Equity
Judiciary and Public Safety
Transportation and the Environment

Statement of Introduction
Institution of Higher Education Sexual Misconduct Reporting and
Resource Accessibility Act of 2023
July 14, 2023

Today, I am introducing the Institution of Higher Education Sexual Misconduct Reporting and Resource Accessibility Act of 2023, along with Councilmembers Vincent C. Gray, Charles Allen, Matthew Frumin, Brooke Pinto, and Brianne K. Nadeau.

Students attending college in the District should be certain of accruing benefits such as job security, exceptional networking opportunities, high earnings, and personal development, but for some students, experiencing sexual misconduct during their educational career is also highly likely.

Sexual misconduct is a prevalent crime against women, transgender people, genderqueer people, and nonbinary people at institutions of higher education. According to the American Association of Universities' 2020 campus climate survey on sexual assault and sexual misconduct, nationally, 59% of undergraduate women reported experiencing harassing behavior since enrolling at school, and 23% of transgender, genderqueer, and nonbinary students experienced unwanted sexual contact.¹ Less than half of students surveyed who had experienced sexual misconduct thought it likely that an official at a school would take an allegation of sexual misconduct seriously. Only 29.5% of victims contacted at least one program or resource to support them, but only 20.6% of these contacted Title IX and 17.9% contacted their campus victim services office. Institutions of higher education are required to publicly report reported incidents of sexual violence, but low survivor reporting leads to low institutional reporting. Only one third of students felt they were very or extremely knowledgeable about the definition of sexual assault, where to get help, and how to report it, which underscores the importance of training so students understand what sexual assault is and how to get help. It is important that a student survivor feel confident in the resources and processes that are available to them through their school during one of the worst times of their life.

While the District continues to work toward the goal of preventing sexual assault and providing quality resources for survivors, it is equally important to sharpen the tools at our disposal that address the main issues—a lack of provisions to gather sexual misconduct data, annual evidence-based sexual assault prevention training for students, and better resources for survivors.

¹ [Report on the American Association of Universities Campus Climate Survey on Sexual Assault and Misconduct, 2020.](#)



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This legislation would further the District's commitment to supporting survivors of sexual misconduct by:

- Requiring Institutions of higher education in the District to retain a confidential resource advisor (CRA) to provide emergency and ongoing support to reporting parties at institutions of higher education.
 - The CRA would be required to be experienced in sexual misconduct work, disseminate information to reporting parties and to institution staff and students.
 - A CRA would provide victims with assistance regarding navigating processes in the institution, in law enforcement, being connected to resources following an experience of sexual misconduct, and other supports the victim requests.
 - All communications between the reporting party and the CRA would be confidential, and the reporting party would have to approve the CRA communicating with outside entities in most circumstances.
 - This section of the bill also creates flexibility for small institutions by allowing them to partner with another institution or enter into a Memorandum of Understanding (MOU) with a local victim advocacy organization to provide these services.
 - In the District, George Washington University, American University, and Howard University currently have CRAs.
- Requiring amnesty protections for reporting parties of sexual misconduct for violations of an institution's student conduct policy if the violation occurred immediately before, during, or immediately after the incident of sexual misconduct, unless the violation put at immediate and severe risk the health and safety of others.
- Requiring institutions to facilitate mandatory annual sexual misconduct trainings for all students with information about consent, the impact of drugs and alcohol on an individual's ability to consent, procedures following sexual misconduct, contact information for the CRA, bystander intervention strategies, the rights of reporting parties, and the institution's responsibilities regarding no-contact orders, orders of protection, or restraining orders.
- Requiring institution of higher education personnel who are involved in an institution of higher education's investigative and disciplinary process regarding sexual misconduct to receive annual training in handling sexual misconduct complaints and in the operations of the institution's disciplinary process.
- Requiring that CRAs, Title IX coordinators, and an institution of higher education's public safety personnel be educated in trauma-informed responses, and investigators to receive annual training on conducting investigations using trauma-informed responses.
- Establishing minimum criteria for institutions' sexual misconduct policies.
- Allowing institutions to grant students who report experiencing sexual misconduct to specific institution personnel a waiver from minimum GPA, credit hour load, or other academic requirements or disciplinary record standards if the reporting student consents for a CRA, Title IX coordinator, public safety personnel, or local law enforcement to confirm to the institution the report of sexual misconduct.



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- Requiring institutions of higher education to prepare and submit to the Higher Education Licensure Commission a report containing data about sexual misconduct on campus, to submit to the Commission and, starting in 2026, publish on its website the results of the online survey for campus safety that will be biennially administered pursuant to the §11611–6 of the Violence Against Women Act Reauthorization Act of 2022.
- Setting penalties for institutions that do not comply with the provisions of this bill, which are capped at the lower of \$59,000 or one percent of an institution’s annual operating budget.

Sexual misconduct is uprooted by safe, trustworthy, and transparent environments where institutions’ sexual misconduct policies are informed by recent and relevant data, where reporting parties can access information and resources from a confidential source present solely to provide support, where the privacy of reporting parties is respected, and where staff are regularly trained to respond to sexual misconduct. The Council is committed to ensuring safe educational environments for students and personnel at the District’s institutions of higher education and to ensuring that our institutions empower survivors to seek resources following any incident of sexual misconduct, and I look forward to working with my colleagues to realize these goals.

1 *Vincent C. Gray*

2 Councilmember Vincent C Gray

Christina Henderson

Councilmember Christina Henderson

3
4 *Charles Allen*

5 Councilmember Charles Allen

Matthew Frumin

Councilmember Matthew Frumin

7
8 *Brooke Pinto*

9 Councilmember Brooke Pinto

Brianne K. Nadeau

Councilmember Brianne K. Nadeau

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16 A BILL

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21 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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25 To require institutions of higher education in the District to retain a confidential resource
26 advisor, to require amnesty protections under certain circumstances for reporting parties
27 of sexual misconduct, to require institutions to facilitate mandatory annual sexual
28 misconduct trainings for all students that conform with minimum criteria, to require
29 institution of higher education personnel involved in an institution of higher education's
30 sexual misconduct investigative and disciplinary processes to receive annual training in
31 handling sexual misconduct complaints and in the operations of the institution's
32 disciplinary process, to require confidential resource advisors, Title IX coordinators, and
33 institution public safety personnel to be educated in trauma-informed responses, to
34 establish criteria for institutions' sexual misconduct policies, to require institutions to
35 grant a waiver from some academic requirements under certain conditions to students
36 who report experiencing sexual misconduct to specific institution personnel, to require
37 institutions of higher education to prepare and submit to the Higher Education Licensure
38 Commission a report about sexual misconduct at the institution, and to establish penalties
39 for institutions that do not comply with the provisions of this act.

40
41 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
42 act may be cited as the "Institution of Higher Education Sexual Misconduct Reporting and
43 Resource Accessibility Act of 2023".

44 Sec. 2. Definitions.

45 For the purposes of this act, the term:

46 (1) “Institution of higher education” or “institution” shall have the same meaning
47 as provided in section 101 of the Higher Education Act (20 U.S.C. §1001).

48 (2) “Reporting party” means a student or employee of an institution who reports
49 having experienced an incident of sexual misconduct to the institution.

50 (3) “Responding party” means a student, employee, or other individual who has
51 been accused of an incident of sexual misconduct by a reporting party.

52 (4) “Student” means an individual who is enrolled at least part-time in a credit-
53 bearing program through a public or private degree-granting institution of higher education.

54 (5) “Sexual misconduct” shall have the same meaning as the following terms:

55 (A) Dating violence, domestic violence, and stalking, as defined in the
56 Consolidated Appropriations Act of 2022 (Pub. L. 117-103, 136 Stat. 49);

57 (B) Sexual assault, as defined in the Jeanne Clery Disclosure of Campus
58 Security Policy and Campus Crime Statistics Act (20 USC § 1092); or

59 (C) Sexual harassment, as defined in Title IX of the Education
60 Amendments of 1972 (34 CFR 106.30(a)).

61 (6) “Title IX coordinator” means an employee designated by an institution whose
62 responsibilities include those required by 34 C.F.R. § 106.8(a).

63 (7) “Trauma-informed response” means a response involving an understanding of
64 the complexities of sexual misconduct through training centered on the neurobiological impact of
65 trauma, the influence of myths and stereotypes surrounding the causes and impacts of trauma,
66 perpetration methodology, and methods to conduct investigations.

67 Sec. 3. Confidential resource advisor role and responsibilities.

68 (a) Each institution shall designate a confidential resource advisor who shall provide
69 emergency and ongoing support to reporting parties at institutions of higher education in the
70 District as described in this section. Each institution shall also designate an employee who has
71 received training which conforms with the requirements of subsection (b)(3) of this section to
72 fulfill the responsibilities of the confidential resource advisor if necessary.

73 (b) The confidential resource advisor:

74 (1) Shall:

75 (A) Be appointed based on the individual's professional experience and
76 demonstrated ability to effectively provide victim services related to sexual misconduct;

77 (B) Provide written notice to all institution staff involved in providing or
78 enforcing relevant supportive measures or accommodations of the requirements of this section;

79 (C) Shall complete yearly trainings in sexual misconduct awareness and
80 prevention, Title IX policies, in trauma-informed response, and, if employed by an institution,
81 shall complete yearly trainings in the institution of higher education's policies pertaining to
82 student conduct, harassment, and sexual relationships; and

83 (D) Shall establish communication with sexual misconduct resource
84 providers in the District and at the institution within 3 months of being designated as a
85 confidential resource advisor.

86 (2) Shall not:

87 (A) Act as a counselor or therapist;

88 (B) Disclose a confidential communication as defined by § 14-310 except:

89 (i) As required by statute or by a court of law;

- 90 (ii) As voluntarily authorized in writing by the reporting party;
- 91 (iii) To other individuals employed at the institution or others and
92 third party providers when and to the extent necessary to facilitate the delivery of services to the
93 victim;
- 94 (iv) To the Metropolitan Police Department or other law
95 enforcement agency to the extent necessary to protect the victim or another individual from a
96 substantial risk of imminent and serious physical injury;
- 97 (v) To compile statistical or anecdotal information, without
98 personal identifying information, for research or public information purposes; or
- 99 (vi) For any confidential communications relevant to a claim or
100 defense if the victim files a lawsuit against a domestic violence counselor or a domestic violence
101 program;
- 102 (C) Provide services to the reporting party and responding party of the
103 same incident;
- 104 (D) Unless otherwise required to do so by state or federal law, be required
105 to report an incident of sexual misconduct to the institution or to a law enforcement agency;
- 106 (E) Be a student at the institution of higher education at which the
107 confidential resource advisor is employed;
- 108 (F) Be the Title IX coordinator employed by an institution of higher
109 education;
- 110 (G) Be an authorized administrator of disciplinary processes on behalf of
111 an institution of higher education;
- 112 (H) Be a member of the institution's public safety personnel; or

113 (I) Have employment responsibilities that may create a conflict of interest,
114 including employment by the institution as:
115 (i) General counsel;
116 (ii) A religious or spiritual authority;
117 (iii) Director of athletics;
118 (iv) Dean of students; or
119 (v) An employee who serves on the judicial or hearing board or to
120 whom an appeal might be made.

121 (c) An institution may enter into a memorandum of understanding with a victim advocacy
122 organization to employ a confidential resource advisor as required under this section. An
123 institution that enrolls fewer than 1,000 residential students may partner with another institution
124 or sexual assault resource organization in the District to provide the services required under this
125 section.

126 (d) An institution shall ensure that any memorandum of understanding entered into under
127 this subsection shall result in a confidential resource advisor being available to students or
128 employees within a reasonable distance from the student's institution.

129 (e) The confidential resource advisor shall provide a reporting party with information,
130 including the following, in written or electronic format, which may include links, pamphlets,
131 handouts, and information packets that are publicly available:

132 (1) Options for reporting sexual misconduct or sexual harassment to the
133 institution's public safety personnel, to the Metropolitan Police Department, the institution's
134 Title IX coordinator, and to federal law enforcement, if necessary, and the processes required of
135 the reporting party under each process;

136 (2) Information pertaining to securing protection or no contact orders, restraining
137 orders, or similar lawful orders issued by a criminal or civil court;

138 (3) Information pertaining to the reporting party's rights and the institution's
139 responsibilities regarding protection orders, no contact orders, and any other lawful orders issued
140 by the institution or by a court of law;

141 (4) The investigative processes of District and federal law enforcement agencies
142 and legal processes of District judicial bodies pertaining to sexual misconduct;

143 (5) Any limitations on the ability of the confidential resource advisor to provide
144 privacy or confidentiality to the student;

145 (6) Counseling services available through local rape crisis centers and domestic
146 violence centers;

147 (7) Medical and health services available at facilities that are unaffiliated with the
148 institution;

149 (8) A statement that the institution's disciplinary process is not a substitute for the
150 criminal legal process; and

151 (9) If the confidential resource advisor is employed by the institution:

152 (A) Counseling services available through the institution;

153 (B) Medical and health services available through the institution's
154 facilities;

155 (C) Any escort services available to the reporting party through the
156 institution;

157 (D) Available academic and residential accommodations;

158 (E) For students considering temporary withdrawal or part-time
159 enrollment, referrals to loan counseling services pertaining to loan deferment, forbearance, or
160 other student loan programs; and

161 (F) The institution's investigative, disciplinary and non-disciplinary
162 processes pertaining to sexual misconduct.

163 (f) If the reporting party submits a written request to the confidential resource advisor, the
164 confidential resource advisor may coordinate with the appropriate institutional personnel to
165 request relevant accommodations for the reporting party using only the reporting party's
166 identifying information. The supportive measures may also be obtained, when appropriate,
167 through the institution's disability services office and the Title IX coordinator in compliance
168 with the relevant office's policies. Relevant accommodations that are within the institution's
169 control or are available through memorandums of understanding with sexual misconduct
170 resource providers may be available to the reporting party, including:

171 (1) Access to counseling and other mental health services;

172 (2) Securing excused absences, academic counseling, and tutoring;

173 (3) Academic coursework accommodations; and

174 (4) Financial resources or referrals to financial resources in the event that a
175 reporting party withdraws from a course or from the institution.

176 (g) Nothing in this section shall be construed to limit either party's right of cross
177 examination of the confidential resource advisor in a civil or criminal proceeding if the
178 confidential resource advisor testifies after written consent from the reporting party has been
179 given.

180 (h) The confidential resource advisor may, if appropriate and if directed by the reporting
181 party, assist the reporting party in contacting the institution’s public safety personnel or the local
182 or federal law enforcement to make a report.

183 (i) The confidential resource advisor may attend an administrative or institution-based
184 adjudication proceeding as the advisor or support person of the reporting party’s choice.

185 (j) Notice to a confidential resource advisor of an alleged act of sexual misconduct or a
186 confidential resource advisor's performance of a service under this section shall not be
187 considered actual or constructive notice of such an alleged act to the institution of higher
188 education at which the confidential resource advisor is employed or provides contracted services.

189 (k) If a conflict of interest arises for an institution in which a confidential resource
190 advisor is advocating for a reporting party's need for sexual assault crisis services, the
191 institution’s public safety personnel, the Metropolitan Police Department, or the institution shall
192 not discipline, penalize, or otherwise retaliate against the Confidential Resource Advisor for
193 representing the interest of the reporting party.

194 (l) The services provided to reporting parties by a confidential resource advisor shall be
195 free of charge.

196 Sec. 4. Amnesty protections for reporting parties.

197 (a) A reporting party or a witness to an incident of sexual misconduct who reports an
198 incident of sexual misconduct to an institution or local or federal law enforcement shall not be
199 subject to a disciplinary proceeding or sanction for a violation of the institution of higher
200 education's student conduct policy that occurred immediately preceding, during, or immediately
201 following the incident of sexual misconduct unless the institution determines that the report was

202 not made in good faith or that the violation put at immediate and severe risk the health and safety
203 of other individuals.

204 (b) Notwithstanding an institution's code of conduct, an institution shall not take
205 disciplinary action against reporting parties for consensual sexual activity related to the incident
206 or other consensual sexual activity revealed during an investigation into the reported incident.

207 Sec. 5. Annual sexual misconduct awareness training.

208 (a) An institution of higher education shall provide mandatory annual sexual misconduct
209 primary prevention and awareness programming that is trauma-informed and gender-inclusive
210 for all students of the institution. The training shall be mandatory and shall include:

211 (1) An explanation of consent in reference to sexual activity and sexual
212 relationships;

213 (2) The role that drugs and alcohol play in an individual's ability to consent;

214 (3) Procedures victims should follow if sexual misconduct has occurred, including
215 information in writing about:

216 (i) The importance of preserving evidence to document sexual
217 misconduct;

218 (ii) Procedures to report an incident of sexual misconduct, including
219 confidential and anonymous disclosure; and

220 (iii) Information on the institution's procedures for resolving sexual
221 misconduct complaints and the range of sanctions or penalties the institution may impose on
222 students and employees found responsible for a violation;

223 (4) The name, contact information, and role of the confidential resource advisor;

224 (5) Safe and positive strategies for bystander intervention that may be carried out
225 by an individual to prevent harm or reduce risk;

226 (6) The rights of reporting parties and the institution's responsibilities regarding
227 orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a
228 criminal or civil court; and

229 (7) Opportunities for ongoing sexual misconduct prevention and sexual
230 misconduct awareness training and programming.

231 (b) Trainings shall be culturally responsive and reflect students' experiences, including
232 race, color, ethnicity, national origin, religion, economic status, disability, sexual orientation,
233 gender identity, and reproductive status.

234 Sec. 6. Training for individuals involved in sexual misconduct response processes.

235 (a) An individual who participates in the implementation of an institution of higher
236 education's investigative and disciplinary process, including an individual responsible for
237 resolving complaints of reported incidents, an individual responsible for conducting a meeting,
238 hearing or other disciplinary proceeding or informal resolution process, and the confidential
239 resource advisor employed by the institution shall have annual training in handling sexual
240 misconduct complaints and in the operations of the institution's disciplinary process, which shall
241 include:

242 (1) Information about working with and interviewing individuals who have been
243 subjected to sexual misconduct;

244 (2) Information about types of conduct that constitute sexual misconduct;

245 (3) Information about consent and the role drugs and alcohol may play in an
246 individual's ability to consent;

247 (3) The effects of trauma, including the manifestation of neurobiological and
248 physical impact on an individual;

249 (4) Cultural competence training regarding the impacts of sexual misconduct
250 depending on factors that contribute to an individual's cultural background, including race, color,
251 national origin, ethnicity, religion, economic status, gender identity, gender expression, sexual
252 orientation, pregnancy, and parenting status;

253 (5) Techniques to communicate sensitively and compassionately with a reporting
254 party, including responding to a reporting party with consideration of that party's background;

255 (6) Techniques to communicate sensitively with a responding party, including an
256 awareness of the emotional impact of being wrongly accused; and

257 (7) Training and information regarding how sexual misconduct may impact
258 students with disabilities.

259 Sec. 7. Institution personnel trauma-informed training requirements.

260 (a) Each institution of higher education shall ensure that its confidential resource advisor,
261 Title IX office personnel, and public safety personnel employed by the institution are educated in
262 trauma-informed responses.

263 (b) Each institution of higher education shall ensure that its investigators receive annual
264 training on conducting an investigation using trauma-informed responses and which protects the
265 safety of victims and promotes accountability.

266 Sec. 8. Minimum criteria for institutional sexual misconduct policies.

267 (a) Institutions of higher education in the District of Columbia shall ensure that the
268 institution's sexual misconduct policy includes:

269 (1) Information on where victims of sexual assault can receive immediate
270 emergency assistance following an alleged incident of sexual misconduct, which shall include:

271 (A) The name and location of medical facilities where an individual may
272 request that a medical forensic exam be administered by a trained sexual assault forensic health
273 care provider;

274 (B) Descriptions and contact information for local rape crisis centers and
275 domestic violence resource providers, and a description of the services provided by such centers;

276 (C) The telephone number and website for a national 24-hour sexual
277 assault hotline;

278 (D) Information on any programs that may provide financial assistance to
279 a student with the cost of emergency medical assistance or related travel; and

280 (E) Information regarding the legal and institutional obligations of the
281 Title IX coordinator and employees of the Title IX office; and

282 (2) Descriptions of the roles and responsibilities and contact information for the
283 confidential resource advisor and the institution's Title IX coordinator.

284 (b) Each institution of higher education shall distribute the information required under
285 subsection (a) by electronic or postal mail to students and employees of the institution, or shall
286 maintain the information on its website.

287 Sec. 9. Waivers for student reporting parties.

288 (a) Institutions may grant to a student who has reported an experience of sexual assault to
289 the institution's confidential resource advisor, Title IX coordinator, public safety personnel, or
290 local law enforcement and has given written consent to those individuals to confirm to the
291 institution the incident of sexual misconduct, a waiver from requirements that the student

292 maintain a minimum grade point average, credit hour load, or satisfy other academic
293 requirements or disciplinary record standards in order to maintain eligibility for institutional
294 scholarships and grants; provided, that academic achievement standards required to maintain
295 eligibility for federal student financial aid programs shall not be waived.

296 (b) The institution and its employees shall maintain confidentiality related to a waiver
297 and related personal identifying information unless disclosure is required specifically for the
298 purposes of executing the waiver.

299 Sec. 10. Data reporting requirements.

300 (a) No later than May 1 of each calendar year, institutions of higher education in the
301 District shall prepare and submit to the Higher Education Licensure Commission a report with
302 data from the past 12 months which includes:

303 (1) The number of allegations of sexual misconduct, broken down by allegations
304 of dating violence, domestic violence, sexual assault, and stalking, reported to the institution's
305 Title IX coordinator by a student or employee of the institution against another student or
306 employee of the institution;

307 (2) The number of law enforcement investigations initiated in response to
308 complaints of sexual misconduct brought forward by students and employees of the institution
309 against another student or employee of the institution, if known;

310 (3) The number of students and employees found responsible for violating an
311 institution's policies prohibiting sexual misconduct, and the number of students and employees
312 who were subjected to academic or employment disciplinary action;

313 (4) The number of students and employees investigated for sexual misconduct
314 who were found not responsible for violating an institution's sexual misconduct policies;

315 (5) The number of individual disciplinary actions imposed by the institution as a
316 result of a finding of responsibility for violating an institution's policies prohibiting sexual
317 misconduct;

318 (6) The number of students that requested accommodations and the number of
319 students for whom the institution granted accommodations; and

320 (7) The number of students that reported an incident of sexual misconduct and
321 took a leave of absence, transferred, or withdrew from the institution and identified in writing
322 when taking a leave of absence, transferring, or withdrawing that the incident of sexual
323 misconduct contributing to their decision.

324 (b) The report shall not contain personal identifying information. Demographic data
325 information contained in the report may be aggregated.

326 (c) Beginning in 2026, institutions in the District shall submit to the Higher Education
327 Licensure Commission and publish on the institution's website the results of the online survey
328 for campus safety administered pursuant to section 1507 of the "Keeping Children Safe From
329 Family Violence Act," approved March 15, 2022 (136 Stat. 959; 20 U.S.C. § 11611-6).

330 Sec. 11. Enforcement.

331 (a) Upon determination, after reasonable notice and opportunity for a hearing, that an
332 institution of higher education has violated or failed to carry out any provision of this act or any
333 rule adopted under this act, the Higher Education Licensure Commission may impose a civil fine
334 upon an institution for each violation not to exceed \$59,000, or one percent of an institution's
335 annual operating budget, whichever is lower. The Higher Education Licensure Commission shall
336 use revenues generated from collecting civil penalty fines to execute any enforcement functions
337 required by this act.

338 Sec. 12. Fiscal impact statement.

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

342 Sec. 13. Effective date.

343 This act shall take effect following approval by the Mayor (or in the event of veto by the
344 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
345 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
346 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
347 Columbia Register.