

A RESOLUTION

25-232

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 11, 2023

To declare the existence of an emergency with respect to the need to amend the Neighborhood Engagement Achieves Results Amendment Act of 2016 to enhance the Private Security Camera System Incentive Program by removing the program rebate cap; to amend the Anti-Sexual Abuse Act of 1994 to clarify the definition of “significant relationship” in sexual abuse cases; to amend the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2011 to require that all participating entities in the Criminal Justice Coordinating Council report aggregate programmatic data on process and outcomes of programs, and to require the Criminal Justice Coordinating Council to publish data related to arrests for violent crimes, gun violence, and homicide counts and rates; to amend An Act To control the possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes to establish an offense of endangerment with a firearm; to amend section 16-2310 of the District of Columbia Official Code to establish a rebuttable presumption that pre-hearing detention is necessary where there is a substantial probability that the youth committed certain serious violent crimes or committed a dangerous crime or crime of violence while armed with a knife; to amend Title 23 of the District of Columbia Official Code to establish a rebuttable presumption in favor of detaining a person pretrial where there is probable cause that the person committed a violent crime, to change the standard of proof necessary to trigger a rebuttable presumption for certain serious crimes, to provide courts with discretion to make a misdemeanor arrest warrant extraditable, to clarify that GPS records from the Pretrial Services Agency are admissible in court on the issue of guilt, and to direct the Court to expedite cases involving a child victim, to amend An Act To establish a code of law for the District of Columbia to create a new standalone offense of strangulation; to require the Metropolitan Police Department to publish closure information for all violent crimes and non-fatal shootings; to revive the Extreme Risk Protection Order Implementation Working Group and to require the Metropolitan Police Department and the Office of the Attorney General to assist publicizing information about extreme risk protection orders; to require the Metropolitan Police Department to review every

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shooting to inform immediate interventions, and to require the Deputy Mayor for Public Safety and Justice to review each shooting from a services and response perspective; and to require the Mayor to submit to the Council and post on its website a firearm tracing date and accountability report.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Prioritizing Public Safety Emergency Declaration Resolution of 2023”.

Sec. 2. (a) The District is currently experiencing a significant spike in violent crime. As of July 5 of this year, there had been 127 homicides, a 19% increase from the same time in 2022. If this pace continues, for the first time in in 2 decades, the District will see 3 consecutive years where our homicide count exceeds 200. There have also been more than 500 people shot in more than 400 separate incidents.

(b) The District is also experiencing a marked increase in a number of other violent and highly salient crimes. Robberies have increased by nearly 50% compared with 2022; motor vehicle thefts are up 116%; and the District is on pace to double the number of carjackings compared with 2022, which already saw a historic number of carjackings. Overall, in 2023, we have seen a 30% increase in violent crime and a 29% increase in property crime.

(c) Furthermore, our youth are in crisis. As of the end of June of this year, 12 children under the age of 18 have been killed in the District and 66 kids have been shot. This puts us on track to easily exceed the 16 kids who were killed and 105 kids who were shot in 2022. All of this is happening just as we enter the summer months, which typically come with elevated levels of crime.

(d) Importantly, crime—and especially violent crime—is not experienced equally by residents across the District and is disproportionately felt by residents of color. For example, of the 127 homicides in the District to date, 81—over 60% —occurred in police districts in Wards 7 and 8. And 106 of the 127 homicide victims were Black men.

(e) These deeply concerning statistics fail to fully capture the human toll these crimes have on victims and their families, as well as the broader impact on our neighborhoods and local communities. This includes not only the real, lasting trauma experienced by the victims of, and families of victims of, crime, but also the fear felt by residents desperate to see an end to the crime and violence plaguing their communities. What is more, the disproportionate effect violent crime has on the District’s Black residents has a broad, negative effect on these residents’ earning power, employment opportunities, access to businesses and public amenities, and the mental health of residents living in impacted communities. Residents across the District have called on the Council to take decisive action to address this spate of crime, and violent crime in particular.

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(f) In response to these concerns, Mayor Bowser introduced the Safer Stronger Amendment Act of 2023, as introduced on May 16, 2023 (Bill 25-291). The legislation proposes more than a dozen amendments to the District’s criminal code aimed at enhancing public safety and addressing gaps in the law that hamper the effectiveness of the District’s criminal justice system. The Committee on the Judiciary and Public Safety held a hearing on that legislation on June 27, 2023, where the Council heard from over 160 public witnesses.

(g) Separately, Councilmember Brooke Pinto, Chairwoman of the Committee on the Judiciary and Public Safety, introduced legislation aimed at promoting public safety and accountability within our criminal justice system. That bill, the Accountability and Victim Protection Amendment Act of 2023, as introduced on June 21, 2023 (Bill 25-345), was developed in collaboration with the United States Attorney’s Office for the District of Columbia (“USAO”), and specifically tailored to close gaps in the law that prevent District prosecutors from holding offenders accountable.

(h) The Committee on the Judiciary and Public Safety intends to advance permanent public safety legislation in the fall, but the timing of the Council’s recess and the timeline for Mayoral and congressional review means that any legislation passed by the Council this year would not be effective until early spring 2024 at the earliest. The emergency legislation is appropriately tailored to address policy issues that cannot wait and need to be implemented now to see improvements in the crisis our residents are experiencing.

(i) Thus, the emergency legislation aims to accelerate adoption of several provisions with the public safety bills proposed by the Mayor and Councilmember Pinto. The measures proposed here are tailored to address gaps or areas requiring clarity in the law, provide the Metropolitan Police Department (“MPD”) and USAO with the tools and authority necessary to deter, investigate, and prosecute crime, ensure that individuals who present a danger to the public can be held prior to trial, and provide critical support and protections for victims (or potential victims) or crime. The specific changes the bill proposes are discussed below.

(j) The bill would establish a rebuttable presumption favoring pretrial detention where a court finds probable cause that a person committed a violent crime. The bill also makes a change to require courts to find probable cause rather than a substantial probability that a defendant committed murder or assault with intent to kill while armed in order to apply a rebuttable presumption in favor of pretrial detention. These changes will provide courts with more direction and flexibility to hold individuals who may be contributing to repeated instances of retaliatory gun violence.

(k) The bill would establish a rebuttable presumption that detention is necessary for youth in cases where the court finds a substantial probability that the youth committed a crime of violence—such as carjacking—or a dangerous crime, whether or not it was committed while armed. This limited expansion will ensure that youth can be held when they pose a danger to their peers or the community.

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(l) The bill would create a felony offense of endangerment with a firearm. This offense, a version of which was included in the Revised Criminal Code Act of 2022, enacted on January 17, 2023 (D.C. Act 24-789; 70 DCR 1249), would help to ensure that offenders who recklessly fire a weapon in public are appropriately held accountable.

(m) The bill would provide the executive with flexibility to change the reimbursement rate for the District's Private Security Camera System Incentive Program, which increases MPD's work to solve crimes by providing MPD with access to footage from subsidized cameras. This language will ensure the rebates provided under the program can be sized appropriately to meet costs for these systems.

(n) The bill would extend liability for certain sexual offenses against children to contractors of organizations. Currently, both employees and volunteers are liable, but not contractors; there is no reason to exclude contractors from liability. This language addresses a long outstanding gap in the law.

(o) The bill would require that the Criminal Justice Coordinating Council produce, on a quarterly basis, aggregate programmatic data on process and outcome of District programs, including diversion, and outcomes of alternative dispositions and sentencing agreements.

(p) The bill would make misdemeanor arrest warrants extraditable outside the District where a court finds good cause. This is particularly important given the District's small size and proximity to Maryland and Virginia.

(q) The bill would clarify that GPS records in the possession of the Pretrial Services Agency ("PSA") can be admissible to prove a defendant's guilt in a criminal case or other judicial proceeding. Current law is unclear on this issue, and while the USAO consistently maintains that the law allows these records to be admitted as evidence of guilt, some defendants have attempted to construe the statutes to the contrary. This measure resolves that question, making clear that GPS records from PSA, where legally in the possession of a prosecutor, are admissible—subject to general evidentiary rules—in that defendant's criminal trial.

(r) The bill would direct courts to expedite cases involving a child victim. Currently, the law only expedites cases where a child is called to give testimony; this would expand that to cases where a child is a victim, even where the child doesn't testify. It would also allow courts to expedite sentencing hearings. These changes would help to minimize the length of time child victims are exposed to the criminal justice process.

(s) The bill would create a standalone felony offense of strangulation. Strangulation is a key predictor of future domestic violence turning deadly; establishing a standalone felony offense of strangulation will make it easier for the District to hold individuals who engage in this conduct accountable. This change would also bring the District in line with the 49 other states that allow strangulation to be prosecuted as a felony.

(t) The legislation is of course not a panacea to violent crime in the District; it does represent common-sense, meaningful steps toward addressing this recent spate in crime while the

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Council considers the aforementioned permanent measures in full, continuing to work toward a District that is safe for everyone.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Prioritizing Public Safety Emergency Amendment Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.