



MURIEL BOWSER
MAYOR

November 2, 2023

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson,

Enclosed for consideration and enactment by the Council of the District of Columbia is the "Addressing Crime Trends (ACT) Now Amendment Act of 2023." ACT Now addresses recent public safety challenges by giving law enforcement more tools to hold criminals accountable and keep our neighborhoods safe.

Residents are demanding solutions to bring more accountability for criminal offenders whose crimes are impacting public safety. ACT Now addresses recent crime trends with provisions including:

- Combatting retail theft by establishing a new crime for "directing organized retail theft" which makes it illegal for any person to act as the organizer of a theft for profit scheme by recruiting or directing individuals to commit organized retail theft.
- Reinstating the law that makes it unlawful to wear a mask for the purpose of committing criminal acts, intimidating, and threatening other people, or causing fear.
- Addressing loitering around open-air drug markets. ACT Now would limit loitering by reinstating the ability of the MPD Chief to declare drug-free zones. The establishment of temporary drug free zones can interrupt activity and allow neighborhoods to clean up and reclaim public space.

The department is currently dealing with the unintended consequences of the Comprehensive Policing and Justice Amendment Act. At a time when we're dealing with historically low staffing levels at MPD, ACT Now focuses on commonsense changes that recognize the day-to-day operational challenges our officers experience, and a competitive recruiting environment.

ACT Now will support effective policing, case closure and conviction by ensuring robust and effective officer participation at every stage of the criminal justice process:

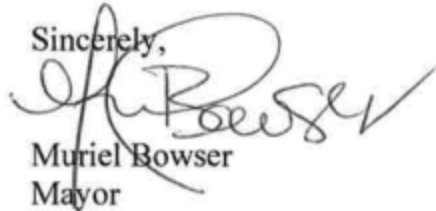
- Clarifying the distinction between a serious use of force and incidental contact with the neck.
- Ensuring officers can review their body worn camera footage prior to writing their initial police report in certain circumstances.

- Making permanent clarification of vehicular pursuit, and
- Defining what information will be posted publicly related to officer discipline.

This is not about protecting the police, as some have argued, but about enhancing the swift and fair administration of justice. These proposals will enhance the effectiveness of our public safety ecosystem, and MPD will continue to be a leader in fair and constitutional policing.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser". The signature is written in a cursive style with a large, looping initial "M".

Muriel Bowser
Mayor



Chairman Phil Mendelson
at the request of the Mayor

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Limitation on the Use of the Chokehold Act of 1985 to clarify the definitions of asphyxiating restraint and neck restraint and apply them retroactively; to amend the Body-Worn Camera Regulation and Reporting Requirements Act of 2015 to allow officers to view body-worn camera footage prior to initial report writing except in certain circumstances and to allow for the redaction of likenesses of District and federal government employees in body-worn camera footage release; to amend Chapter 39 of Title 24 of the District of Columbia Municipal Regulations to repeal the requirement that officers inform contact subjects that they are being recorded by a body-worn camera and to make conforming amendments; to amend the Office of Citizen Complaint Review Establishment Act of 1998 to narrow and clarify the Office of Police Complaints' access to Metropolitan Police Department files, to repeal the requirement that the Metropolitan Police Department and the Mayor send written directives to the Police Complaints Board for feedback, to remove the publication of discipline records of officers by name, and to clarify the information provided in the disciplinary database; to amend Chapter 7 of Title 16 of the District of Columbia Official Code to make cases where a victim is a law enforcement officer a jury demandable offense only when the officer was in uniform or acting in his or her official capacity; to amend the Comprehensive Policing and Justice Reform Amendment Act of 2022 to clarify the use of deadly force legal standard, and to clarify the standards by which the Metropolitan Police Department may engage in a vehicular pursuit; to amend the Omnibus Public Safety Agency Reform Amendment Act of 2004 to repeal the requirement that the Metropolitan Police Department post the name and badge number of members before an adverse action hearing; to amend the Freedom of Information Act of 1976 to add a prospective effective date, to only require disclosure in sustained investigations and discipline cases that result in penalty of suspension, demotion, termination, to disclose the rank rather than the name of Metropolitan Police Department members, to clarify certain records are subject to FOIA protections, to exempt certain medical history from disclosure, to clarify that no personally identifying information is subject to disclosure, and to apply the provisions prospectively; to revive and amend the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982 to re-establish the prohibition for wearing a mask under certain

47 conditions and to make conforming amendments; to amend Chapter 5 of Title 23 of the
48 District of Columbia Official Code to make conforming amendments; to amend the
49 District of Columbia Theft and White Collar Crimes Act of 1982 to establish the offense
50 of directed organized retail theft and to redefine theft in the first degree; and to revive and
51 amend the Anti-Loitering/Drug Free Zone Act of 1996 to reauthorize the Chief of the
52 Metropolitan Police Department to determine and declare a drug enforcement zone and to
53 prohibit the congregation of 2 or more persons on public space on public property, for the
54 purpose of participating in the use, purchase, or sale of illegal drugs, within the perimeter
55 of the drug enforcement zone.

56
57 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
58 act may be cited as the “Addressing Crime Trends (ACT) Now Amendment Act of 2023”.

59 TITLE I. UNLAWFUL USE OF NECK RESTRAINTS BY LAW ENFORCEMENT

60 Sec. 101. Section 3 of the Limitation on the Use of Chokehold Act of 1985, effective
61 January 25, 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.02), is amended as follows:

62 (a) Paragraph (3)(A) is amended to read as follows:

63 “(A) The use of any body part or object by a law enforcement officer
64 against a person with the purpose or intent of severely restricting the person’s breathing, except
65 in cases where the law enforcement officer is acting in good faith to provide medical care or
66 treatment, such as by providing cardiopulmonary resuscitation; or”.

67 (b) Paragraph (5) is amended by striking the phrase “the person’s movement, blood flow,
68 or breathing.” and inserting the phrase “the person’s blood flow or breathing.” in its place.

69 TITLE II. BODY-WORN CAMERA RECORDINGS

70 Sec. 201. Section 3004 of the Body-Worn Camera Regulation and Reporting
71 Requirements Act of 2015, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 5-
72 116.33), is amended as follows:

73 (a) Subsection (c)(2) is amended to read as follows:

74 “(2) The Mayor:

75 “(A) Shall, except as provided in paragraph (3) of this subsection:
76 “(i) Within 5 business days after:
77 “(I) An officer-involved death;
78 “(II) A Metropolitan Police Department officer discharges
79 a firearm, with the exception of a negligent discharge that does not otherwise put members of the
80 public at risk of injury or death, a discharge at an animal, or a range or training incident;
81 “(III) A Metropolitan Police Department officer applies a
82 head strike with an impact weapon;
83 “(IV) A Metropolitan Police Department officer engages in
84 use of force resulting in serious bodily injury; resulting in loss of consciousness or creating a
85 substantial risk of death, serious disfigurement, disability or impairment of the functioning of
86 any body part or organ; or involving the use of a prohibited technique, as that term is defined in
87 section 3(6) of the Limitation on the Use of the Chokehold Act of 1985, effective January 25,
88 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.02(6)); or
89 “(V) A Metropolitan Police Department canine bites a
90 person;
91 “(ii) Publicly release:
92 “(I) The names and body-worn camera recordings of all
93 officers directly involved in the officer-involved death, or incidents described in paragraph
94 (2)(A)(i) of this subsection; and
95 “(II) A description of the incident; and
96 “(iii) Maintain, on the website of the Metropolitan Police
97 Department in a format readily accessible and searchable by the public, the body-worn camera

98 recordings of all officers who were directly involved in an officer-involved death since the Body-
99 Worn Camera Program was launched on October 1, 2014; and

100 “(B) May, on a case-by-case basis in matters of significant public interest
101 and after consultation with the Chief of Police, the Office of the Attorney General, and the
102 United States Attorney’s Office for the District of Columbia, publicly release any other body-
103 worn camera recordings that may not otherwise be releasable pursuant to a FOIA request or
104 subparagraph (A) of this paragraph.”.

105 (b) Subsection (e) is amended to read as follows:

106 “(e)(1)(A) For any incident described in subsection (c)(2)(A)(i) of this section, except as
107 otherwise provided by this subsection, Metropolitan Police Department officers shall not review
108 any body-worn camera recordings to assist in initial report writing.

109 “(B) The restrictions of subparagraph (A) of this paragraph shall not apply
110 to an incident involving an injury described in subsection (c)(2)(A)(i)(IV) of this section that is
111 unknown to the officer before writing the initial report.

112 “(2) An officer shall indicate, when writing any subsequent reports, whether the
113 officer viewed body-worn camera footage prior to writing the subsequent report.”.

114 (c) Subsection (f) is repealed.

115 (d) Subsection (g) is amended as follows:

116 (1) Paragraph (3) is repealed.

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

118 “(4) “Serious bodily injury” means extreme physical pain, illness, or impairment
119 of physical condition including physical injury that involves: a substantial risk of death;

120 protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily
121 member or organ; or protracted loss of consciousness.”.

122 Sec. 202. Chapter 39 of Title 24 of the District of Columbia Municipal Regulations is
123 amended as follows:

124 (a) Section 3900 (24 DCMR § 3900) is amended as follows:

125 (1) Subsection 3900.5 is repealed.

126 (2) Subsection 3900.9 is amended to read as follows:

127 “3900.9. (a)(1) For any incident described in subsection 3900.10(a)(1)(A) of this section,
128 except as otherwise provided by this paragraph, a member shall not review any body-worn
129 camera recordings to assist in initial report writing.

130 “(2) The restrictions of subparagraph (1) of this paragraph shall not apply to an
131 incident involving an injury described by subsection 3900.10(a)(1)(A)(iv) of this section that is
132 unknown to the officer before writing the initial report.

133 “(b) A member shall indicate, when writing any subsequent reports, whether the member
134 viewed body-worn camera footage prior to writing the subsequent report.”.

135 (3) Subsection 3900.10(a) is amended to read as follows:

136 “3900.10. (a) Notwithstanding any other law, the Mayor:

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

138 “(A) Within 5 business days after:

139 “(i) An officer-involved death;

140 “(ii) An MPD officer discharges a firearm, with the exception of a
141 negligent discharge that does not otherwise put members of the public at risk of injury or death, a
142 discharge at animals, or a range or training incident;

143 “(iii) An MPD officer applies a head strike with an impact weapon;

144 “(iv) An MPD officer engages in use of force resulting in serious
145 bodily injury; resulting in loss of consciousness or creating a substantial risk of death, serious
146 disfigurement, disability or impairment of the functioning of any body part or organ; or
147 involving the use of a prohibited technique, as that term is defined in section 3(6) of the
148 Limitation on the Use of the Chokehold Act of 1985, effective January 25, 1986 (D.C. Law 6-77;
149 D.C. Official Code § 5-125.02(6)); or

150 “(v) An MPD canine bites a person.

151 “(B) Publicly release:

152 “(i) The names and body-worn camera recordings of all officers
153 directly involved in the officer-involved death, or incidents described in subparagraph (1)(A) of
154 this paragraph; and

155 “(ii) A description of the incident.

156 “(C) Maintain, on the website of the Metropolitan Police Department in a
157 format readily accessible and searchable by the public, the body-worn camera recordings of all
158 officers who were directly involved in an officer-involved death since the Body-Worn Camera
159 Program was launched on October 1, 2014; and

160 “(2) May, on a case-by-case basis in matters of significant public interest and after
161 consultation with the Chief of Police, the Office of the Attorney General, and the United States
162 Attorney’s Office for the District of Columbia, publicly release any other body-worn camera
163 recordings that may not otherwise be releasable pursuant to a FOIA request or subparagraph
164 (1)(A) of this paragraph.”.

165 (b) Section 3999.1 is amended as follows:

166 (1) Strike the definition for “serious use of force”.

167 (2) Insert a new definition between the definitions of “next of kin” and “subject”

168 to read as follows:

169 ““Serious bodily injury”” means extreme physical pain, illness, or impairment of physical
170 condition including physical injury that involves: a substantial risk of death; protracted and
171 obvious disfigurement; protracted loss or impairment of the function of a bodily member or
172 organ; or protracted loss of consciousness.”.

173 TITLE III. OFFICE OF POLICE COMPLAINTS; PUBLIC RELEASE OF RECORDS
174 RELATED TO MISCONDUCT AND DISCIPLINE

175 Sec. 301. The Office of Citizen Complaint Review Establishment Act of 1998, effective
176 March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 *et seq.*), is amended as follows:

177 (a) Section 5 (D.C. Official Code § 5-1104) is amended as follows:

178 (1) Subsection (d-2) is amended as follows:

179 (A) Paragraph (2) is amended by striking the phrase “have unfettered
180 access to all information” and inserting the phrase “have timely and complete access to
181 information”.

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

183 “(3) The Executive Director shall keep confidential the identity of all person’s
184 names in any documents transferred from the MPD to the Office pursuant to paragraphs (1) and
185 (2) of this subsection.”.

186 (2) Subsection (d-4) is repealed.

187 (b) Section 17(a) (D.C. Official Code 5-1116(a)) is amended as follows:

188 (1) Paragraph (1) is amended to read as follows:

189 “(1) The rank, race, gender, and length of service of an officer against whom an
190 allegation of misconduct has been sustained;”.

191 (2) Paragraph (4) is amended by striking the phrase “disposition and a copy of the
192 final order or written determination;” and inserting the phrase “disposition;” in its place.

193 TITLE IV. RIGHT TO JURY TRIAL

194 Sec. 401. Section 16-705(b)(1)(C)(ii) of the District of Columbia Official Code is
195 amended to read as follows:

196 “(ii) The person who is alleged to have been the victim of the
197 offense is a law enforcement officer, as that term is defined in section 432(a) of the Revised
198 Statutes of the District of Columbia (D.C. Official Code § 22-405(a)), if the law enforcement
199 officer was in uniform or acting in an official capacity at the time of the offense; and”.

200 TITLE V. OFFICER DISCIPLINE

201 Sec. 501. Section 502(c)(2) of the Omnibus Public Safety Agency Reform Amendment
202 Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-
203 1031(c)(2)), is amended to read as follows:

204 “(2) The schedule shall include:

205 “(A) The date, time, and location of the hearing; and

206 “(B) A summary of the alleged misconduct or charges against the subject
207 officer.”.

208 TITLE VI. USE OF FORCE REFORMS; VEHICULAR PURSUITS

209 Sec. 601. The Comprehensive Policing and Justice Reform Amendment Act of 2022,
210 effective April 21, 2023 (D.C. Law 24-345; 70 DCR 7094), is amended as follows:

211 (a) Section 119(b)(1) (D.C. Official Code § 5-351.01(b)(1)) is amended by striking the
212 phrase “actually and”.

213 (b) Section 127(a)(11) (D.C. Official Code § 5-365.01(a)(11)) is amended to read as
214 follows:

215 “(11) “Serious bodily injury” means extreme physical pain, illness, or impairment
216 of physical condition, including physical injury that involves:

217 “(A) A substantial risk of death;

218 “(B) Protracted and obvious disfigurement;

219 “(C) Protracted loss or impairment of the function of a bodily member or
220 organ; or

221 “(D) Protracted loss of consciousness.”.

222 (c) Section 128 (D.C. Official Code § 5-365.02) is amended as follows:

223 (1) Subsection (a) is amended as follows:

224 (A) Paragraph (1)(B) is amended by striking the phrase “immediate threat”
225 and inserting the phrase “imminent threat” in its place.

226 (B) Paragraph (2) is amended as follows:

227 (i) Subparagraph (A) is amended by striking the phrase “fleeing
228 suspect,” and inserting the phrase “fleeing suspect or suspects,” in its place.

229 (ii) Subparagraph (B) is amended to read as follows:

230 “(B) Under the totality of circumstances, not likely to cause death or
231 serious bodily injury to any person, other than to the fleeing suspect or suspects; and”.

232 (2) Subsection (c) is repealed.

233 TITLE VII. FOIA

234 Sec. 701. Section 204(d-1) of the Freedom of Information Act of 1976, effective March
235 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(d-1), is amended to read as follows:

236 “(d-1)(1) Notwithstanding any provision of this act, a request under this act for
237 disciplinary records, sustained on or after the effective date of the Addressing Crime Trends
238 (ACT) Now Amendment Act of 2023, passed on 2nd reading on _____ (Enrolled version
239 of Bill 25-____), shall not be categorically denied or redacted on the basis that it constitutes an
240 unwarranted invasion of a personal privacy for officers within the Metropolitan Police
241 Department (“MPD”), the District of Columbia Housing Authority Police Department
242 (“HAPD”), or the Office of the Inspector General (“OIG”), except as described in paragraph (3)
243 of this subsection.

244 “(2) For the purposes of this subsection, the term “disciplinary records” means
245 any record created in furtherance of a sustained disciplinary proceeding for, or an Office of
246 Police Complaints (“OPC”) investigation of, an MPD, HAPD, or OIG officer, that resulted in a
247 penalty of suspension, demotion, or termination, including:

248 “(A) The rank of the officer complained of, investigated, or charged:

249 “(B) The complaints, allegations, and charges against the officer;

250 “(C) The transcript of any disciplinary trial or hearing, including any

251 exhibits introduced at the trial or hearing;

252 “(D) The disposition of any disciplinary proceeding; and

253 “(E) The final written opinion or memorandum supporting the disposition

254 and any discipline imposed, including the MPD’s, HAPD’s, or OIG’s complete factual findings

255 and its analysis of the conduct and appropriate discipline of the officer.

256 “(3) When providing records or information related to disciplinary records, the
257 responding public body may redact:

258 “(A) Technical infractions solely pertaining to the enforcement of
259 administrative departmental rules that do not involve interactions with members of the public
260 and are not otherwise connected to the officer’s investigative, enforcement, training, supervision,
261 or reporting responsibilities;

262 “(B) Their medical history;

263 “(C) Their use of an employee assistance program, including mental
264 health treatment, substance abuse treatment service, counseling, or therapy;

265 “(D) Any personally identifiable information; and

266 “(E) Any other records or information otherwise exempt from disclosure
267 under this section other than subsection (a)(2) of this section.”.

268 TITLE VIII. ANTI-MASK LAW

269 Sec. 801. The Anti-Intimidation and Defacing of Public or Private Property Criminal
270 Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312
271 *et seq.*), is amended to read as follows:

272 (a) Section 4 (D.C. Official Code § 22-3312.03) is revived as of the effective date of the
273 Addressing Crime Trends (ACT) Now Amendment Act of 2023, passed on 2nd reading on
274 _____ (Enrolled version of Bill 25-____), and amended to read as follows:

275 “Sec. 4. Wearing hoods or masks.

276 “‘It shall be unlawful for any person or persons over 16 years of age, while wearing any
277 mask, hood, or device whereby any portion of the face is hidden, concealed, or covered as to

278 conceal the identity of the wearer to enter upon, be, or appear upon or within public property, or
279 hold any meeting or demonstration, if the intent of the person is to:

280 “(1) Engage in conduct prohibited by civil or criminal law and avoid
281 identification;

282 “(2) Deprive any person or class of persons of equal protection of the law or of
283 equal privileges and immunities under the law, or for the purpose of preventing or hindering the
284 constituted authorities of the United States or the District of Columbia from giving or securing
285 for all persons within the District of Columbia equal protection of the law;

286 “(3) Force or threaten the use of force, to injure, intimidate, or interfere with any
287 person because of his or her exercise of any right secured by federal or District of Columbia
288 laws, or to intimidate any person or any class of persons from exercising any right secured by
289 federal or District of Columbia laws;

290 “(4) Intimidate, threaten, abuse, or harass any other person; or

291 “(5) Cause another person to fear for his or her personal safety, or, where it is
292 probable that reasonable persons will be put in fear for their personal safety by the defendant’s
293 actions, with reckless disregard for that probability.”.

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

296 Sec. 802. Section 23-581(a-3) of the District of Columbia Official Code is amended by
297 striking the phrase “section 22-3112.1 and 22-3112.2” and inserting the phrase “sections 2, 3,
298 and 4 of the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act
299 of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312.01, 22-
300 3312.02, & 22-3312.03)” in its place.

301

302 TITLE IX. ORGANIZED RETAIL THEFT

303 Sec. 901. The District of Columbia Theft and White Collar Crimes Act of 1982, effective
304 December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3201 *et seq.*), is amended to read
305 as follows:

306 (a) A new section 111a (D.C. Official Code § 22-3211.01) is added to read as follows:

307 “Sec. 111a. Directing Organized Retail Theft

308 “(a) For the purpose of this section, “organized retail theft” means acting in concert with
309 one or more other persons to commit theft, as defined in section 111, of any merchandise with a
310 value greater than \$1,000 aggregated over a 90-day period with the intent to:

311 “(1) Sell, barter, or trade the merchandise for monetary or other gain or

312 “(2) Fraudulently return the merchandise to a retail merchant.

313 “(b) A person commits the offense of directing organized retail theft if any person acts as
314 an organizer by recruiting, directing, or coercing individuals to commit organized retail theft.

315 “(c) A person who violates this section shall be guilty of a felony and, upon conviction,
316 shall be imprisoned not more than 15 years or fined not more than the amount set forth in section
317 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C.
318 Law 19-317; D.C. Official Code § 22-3571.01), or both.

319 “(d) The Mayor shall conduct a study on the impact of decriminalization of street vending
320 pursuant to the Street Vendor Advancement Amendment Act of 2023, effective July 1,
321 2023 (D.C. Law 25-21; 70 DCR 6762), on public safety, pedestrian safety, and public health in
322 the District of Columbia.”.

323 (b) Section 112(a) (D.C. Official Code § 22-3212(a)) is amended to read as follows:

324 “(a) Theft in the first degree. – Any person convicted of theft in the first degree shall be
325 fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality
326 Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-
327 3571.01), or imprisoned for not more than 10 years, or both, if:

328 “(1) The value of the property obtained or used is \$1,000 or more;

329 “(2) The quantity of property obtained is 10 or more with a value of at least \$250
330 in aggregate over a 30-day period; or

331 “(3) In the course of or in furtherance of such theft, knowingly commits assault or
332 intentionally destroys or damages the property of the retail establishment.”.

333 TITLE X. DRUG FREE ZONES

334 Section 1001. The Anti-Loitering/Drug Free Zone Act of 1996, effective June 3, 1997
335 (D.C. Law 11-270; D.C. Official Code § 48-1001 *et seq.*), is revived as of the effective date of
336 the Addressing Crime Trends (ACT) Now Amendment Act of 2023, passed on 2nd reading on
337 _____ (Enrolled version of Bill 25-____), and amended to read as follows:

338 “Sec. 2. Definitions.

339 For the purposes of this act, the term:

340 “(1) “Chief of Police” means the Chief of the Metropolitan Police Department as
341 the designated agent of the Mayor.

342 “(2) “Disperse” means to depart from the designated drug free zone and not to
343 recongregate within the drug free zone with anyone from the group ordered to depart for the
344 purpose of committing an offense under Title IV of the District of Columbia Uniform Controlled
345 Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-
346 904.01 *et seq.*) for the duration of the zone.

347 “(3) “Drug free zone” means public space on public property in an area not to
348 exceed a square of 1,000 feet on each side that is established pursuant to section 3.

349 “(4) “Illegal drug” means the same as the term “controlled substance” in the
350 District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981
351 (D.C. Law 4-29; D.C. Code § 48-901 *et seq.*).

352 “(5) “Police Department” means the Metropolitan Police Department.

353 “Sec. 3. Procedure for Establishing a Drug Free Zone.

354 “(a) The Chief of Police may declare any public area a drug free zone for a period not to
355 exceed 120 consecutive hours. The Chief of Police shall inform the Chairman of the Council of
356 the District of Columbia of the declaration of a drug free zone.

357 “(b) In determining whether to designate a drug free zone, the Chief of Police shall
358 consider the following:

359 “(1) Within the preceding 6-month period, the occurrence of a disproportionately
360 high number of:

361 “(A) Arrests for the possession or distribution of illegal drugs in the
362 proposed drug free zone;

363 “(B) Police reports for dangerous crimes (as defined in section 23-1331(3)
364 of the District of Columbia Official Code) that were committed in the proposed drug free zone;
365 or;

366 “(C) Police reports for crimes of violence (as defined in section 23-
367 1331(4) of the District of Columbia Official Code) that were committed in the proposed drug
368 free zone;

369 “(2) Any number of homicides that were committed in the proposed drug free
370 zone;

371 “(3) Objective evidence or verifiable information that shows that illegal drugs are
372 being sold and distributed on public space on public property within the proposed drug free zone;
373 and

374 “(4) Any other verifiable information from which the Chief of Police may
375 ascertain whether the health or safety of residents who live in the proposed drug free zone are
376 endangered by the purchase, sale, or use of illegal drugs or other illegal activity.

377 “Sec. 4. Notice of a Drug Free Zone.

378 “Upon the designation of a drug free zone, the Police Department shall mark each block
379 within the drug free zone by using barriers, tape, or police officers that post the following
380 information in the immediate area of, and borders around, the drug free zone:

381 “(1) A statement that it is unlawful for a person to congregate in a group of 2 or
382 more persons for the purpose of committing an offense under Title IV of the District of
383 Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-
384 29; D.C. Official Code § 48-904.01 *et seq.*), within the boundaries of a drug free zone, and to fail
385 to disperse after being instructed to disperse by a uniformed officer of the Police Department
386 who reasonably believes the person is congregating for the purpose of committing an offense
387 under Title IV of the District of Columbia Uniform Controlled Substances Act of 1981, effective
388 August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01 *et seq.*);

389 “(2) The boundaries of the drug free zone;

390 “(3) A statement of the effective dates of the drug free zone designation; and

391 “(4) Any other additional notice to inform the public of the drug free zone.

392 “Sec. 5. Prohibition.

393 “(a) It shall be unlawful for a person to congregate in a group of 2 or more within the
394 perimeter of a drug free zone established pursuant to section 3 for the purpose of committing an
395 offense under Title IV of the District of Columbia Uniform Controlled Substances Act of 1981,
396 effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01 *et seq.*), and to fail to
397 disperse after being instructed to disperse by a uniformed officer of the Police Department who
398 reasonably believes the person is congregating for the purpose of committing an offense under
399 Title IV of the District of Columbia Uniform Controlled Substances Act of 1981, effective
400 August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01 *et seq.*).

401 “(b) In making a determination that a person is congregating in a drug free zone for the
402 purpose of committing an offense under Title IV of the District of Columbia Uniform Controlled
403 Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-
404 904.01 *et seq.*), the totality of the circumstances involved shall be considered. Among the
405 circumstances which may be considered in determining whether such purpose is manifested are:

406 “(1) The conduct of a person being observed, including, but not limited to, that
407 such person is behaving in a manner raising a reasonable belief that the person is engaging or is
408 about to engage in illegal drug activity, such as the observable distribution of small packages to
409 other persons, the receipt of currency for the exchange of a small package, operating as a
410 lookout, warning others of the arrival of police, concealing himself or herself or any object
411 which reasonably may be connected to unlawful drug-related activity, or engaging in any other
412 conduct normally associated by law enforcement agencies with the illegal distribution or
413 possession of drugs;

414 “(2) Information from a reliable source indicating that a person being observed
415 routinely distributes illegal drugs within the drug free zone;

416 “(3) Information from a reliable source indicating that the person being observed
417 is currently engaging in illegal drug-related activity within the drug free zone;

418 “(4) Such person is physically identified by the officer as a member of a gang or
419 association which engages in illegal drug activity;

420 “(5) Such person is a known unlawful drug user, possessor, or seller. For purposes
421 of this act, the phrase a “known unlawful drug user, possessor, or seller” means a person who
422 has, within the knowledge of the arresting officer, been convicted in any court of any violation
423 involving the use, possession, or distribution of any of the substances referred to in sections 204,
424 206, 208, 210, or 212 of the District of Columbia Uniform Controlled Substances Act of 1981,
425 effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-902.04, 48-902.06, 48-
426 902.08, 48-902.10, or 48-902.12); or is a person who displays physical characteristics of drug
427 use, including, but not limited to, “needle tracks”;

428 “(6) Such person has no other apparent lawful reason for congregating in the drug
429 free zone, such as waiting for a bus or being near one's own residence; and

430 “(7) Any vehicle involved in the observed circumstances is registered to a known
431 unlawful drug user, possessor, or seller, or a person for whom there is an outstanding arrest
432 warrant for a crime involving drug-related activity.

433 “Sec. 6. Penalties.

434 “(a) Any person who violates section 5 shall, upon conviction, be subject to a fine of not
435 more than \$300, imprisonment for not more than 180 days, or both.

436 “(b) The fine set forth in this section shall not be limited by section 101 of the Criminal
437 Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C.
438 Official Code § 22-3571.01).”.

439 TITLE XI. APPLICABILITY; FISCAL IMPACT STATEMENT AND EFFECTIVE
440 DATE

441 Sec. 1101. Applicability.

442 (a) Section 101(a) shall apply retroactively to April 21, 2023.

443 (b) Section 101(b) shall apply retroactively to July 22, 2020.

444 Sec. 1102. Fiscal impact statement.

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

448 Sec. 1103. Effective date.

449 This act shall take effect following approval by the Mayor (or in the event of veto by the
450 Mayor, action by the Council to override the veto), a 60-day period of congressional review as
451 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December
452 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
453 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

MEMORANDUM

TO: Tommy Wells
Director
Office of Policy and Legislative Affairs

FROM: Megan D. Browder
Deputy Attorney General
Legal Counsel Division

DATE: October 31, 2023

RE: Addressing Crime Trends (ACT) Now Amendment Act of 2023
(AE-23-370)

This is to Certify that the Office of the Attorney General has reviewed the legislation entitled the “Addressing Crime Trends (ACT) Now Amendment Act of 2023” and determined that it is legally sufficient. If you have any questions, please do not hesitate to call me at (202) 724-5524.

A handwritten signature in black ink that reads "Megan D. Browder".

Megan D. Browder