

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide, on an emergency basis, for comprehensive policing and justice reform for District residents and visitors; and for other purposes.

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44 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
45 act may be cited as the “Comprehensive Policing and Justice Reform Emergency Amendment Act
46 of 2020”.

47 TITLE I. IMPROVING POLICE ACCOUNTABILITY AND TRANSPARENCY

48 SUBTITLE A. PROHIBITING THE USE OF NECK RESTRAINTS

49 Sec. 101. The Limitation on the Use of the Chokehold Act of 1985, effective January 25,
50 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.01 *et seq.*) is amended as follows:

51 (a) Section 2 (D.C. Official Code 5-125.02) is amended to read as follows:

52 “Sec. 2. The Council of the District of Columbia finds and declares that law enforcement
53 officer use of neck restraints, including the use of trachea holds and carotid artery holds, constitutes
54 the use of lethal and excessive force. This force presents an unnecessary danger to the public. On
55 May 25, 2020, Minneapolis Police Department officer Derek Chauvin murdered George Floyd by
56 applying a neck restraint to Floyd with his knee for eight minutes and forty-six seconds. Hundreds
57 of thousands, if not millions, of people in states and cities across the world, including in the
58 District, have taken to the streets to peacefully protest injustice, racism, and police brutality against
59 people of color. Police brutality is abhorrent and does not reflect the District’s values. It is the

60 intent of the Council in the enactment of this subchapter to unequivocally ban the use of neck
61 restraints by local law enforcement and special police officers.”.

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

63 (1) Paragraph (1) is repealed.

64 (2) Paragraph (2) is repealed.

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

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

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

71 “Sec. 4. Unlawful use of neck restraints by District law enforcement and special police
72 officers.

73 “(a) It shall be unlawful for:

74 “(1) Any District law enforcement or special police officer (“officer”) to apply a
75 neck restraint; and

76 “(2) Any officer who applies a neck restraint and any officer who is able to observe
77 the application of a neck restraint to fail to:

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

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

82 “(b) Any officer who violates the provisions of subsection (a) of this section shall be fined
83 no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment
84 Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code 22-3571.01),
85 imprisoned for not more than 10 years, or both.”.

86 SUBTITLE B. IMPROVING ACCESS TO BODY-WORN CAMERA VIDEO
87 RECORDINGS

88 Sec. 102. Chapter 39 of Title 24 of the District of Columbia Municipal Regulations is
89 amended as follows:

90 (a) Section 24-3900.9 is repealed.

91 (b) Section 24-3900.10 is amended to read as follows:

92 “(a) Notwithstanding any other law, the Mayor may, on a case-by-case basis in matters of
93 significant public interest and after consultation with the Chief of Police, the United States
94 Attorney's Office for the District of Columbia, and the Office of the Attorney General, release
95 BWC recordings that would otherwise not be releasable pursuant to a FOIA request.

96 “(b) Notwithstanding any other law, within 72 hours after an incident involving an officer-
97 involved death or the serious use of force, the Mayor shall release the BWC recording and name
98 of any officer who committed or contributed to the officer-involved death or serious use of force.”.

99 (c) Section 24-3901.2 is amended by adding a new paragraph (a-1) to read as follows:

100 “(a-1) Recordings related to a Council request or investigation;”.

101 (d) Section 24-3902.4 is amended to read as follows:

102 “3902.4. Notwithstanding any other law, within 24 hours after a request from the
103 Chairperson of the Council Committee with jurisdiction over the Metropolitan Police Department,

104 the Department shall make unredacted BWC recordings available to the Chairperson. BWC
105 recordings in the possession of the Council shall not be publicly disclosed.”.

106 (e) Section 24-3999.1 is amended by adding the following phrase at the end of the section:

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

109 SUBTITLE C. OFFICE OF POLICE COMPLAINTS REFORMS

110 Sec. 103. The Office of Citizen Complaint Review Establishment Act of 1998, effective
111 March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 *et seq.*), is amended as follows:

112 (a) Section 4(a) (D.C. Official Code § 5-1103(a)) is amended by striking the phrase
113 “members, one of whom shall be a member of the MPD, and 4 of whom shall” and inserting the
114 phrase “members, none of whom, after the expiration of the term of the currently serving member
115 of the MPD, shall” in its place.

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

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

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

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

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

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

126 “(A) Intervene in or subsequently report any use of force incident in which
127 the subject police officer observed another law enforcement officer, including an MPD officer,
128 utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order
129 901.07, its successor directive, or a similar local or federal directive; or

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

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

136 **SUBTITLE D. USE OF FORCE REVIEW BOARD MEMBERSHIP EXPANSION**

137 **Sec. 104. Use of Force Review Board membership.**

138 (a) The Use of Force Review Board (“Board”), as established in Metropolitan Police
139 Department General Order 901.09, or its successor directives, shall include the following voting
140 members:

141 (1) Two civilian members appointed by the Mayor, pursuant to section 2(e) of the
142 Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-
143 523.01(e)), with the following qualifications:

144 (A) One member who has experienced the use of force by a law enforcement
145 officer; and

146 (B) One member of the District of Columbia Bar in good standing with no
147 current or prior affiliation to law enforcement;

148 (2) Two civilian members appointed by the Council with the following
149 qualifications:

150 (A) One member with subject matter expertise in criminal justice policy;
151 and

152 (B) One member with subject matter expertise in law enforcement oversight
153 or the use of force; and

154 (3) The Executive Director of the Office of Police Complaints.

155 SUBTITLE E. EXTENDED TIME FOR CORRECTIVE OR ADVERSE ACTION
156 AGAINST MPD OFFICERS IN SERIOUS CASES

157 Section 105. The Omnibus Public Safety Agency Reform Amendment Act of 2004,
158 effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031), is amended as
159 follows:

160 (a) Subsection (a-1)(1) is amended by striking the phrase “subsection (b) of” and inserting
161 the phrase “subsection (b) or (c) of” in its place.

162 (b) A new subsection (c) is added to read as follows:

163 “(c) If the act or occurrence allegedly constituting cause involves the serious use of force
164 or indicates potential criminal conduct by a sworn member or civilian employee, the period for
165 commencing a corrective or adverse action under subsection (a-1) of this section shall be 180
166 days.”.

167 SUBTITLE F. ANTI-MASK LAW REPEAL

168 Sec. 106. Section 4 of the Anti-Intimidation and Defacing of Public or Private Property
169 Criminal Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code §
170 22-3312.03), is repealed.

171 SUBTITLE G. LIMITATIONS ON CONSENT SEARCHES

172 Sec. 107. Limitations on consent searches.

173 (a) In cases where a search is based solely on the subject's consent to that search, and is
174 not executed pursuant to a warrant or conducted pursuant to an applicable exception to the warrant
175 requirement, sworn members of District Government law enforcement agencies shall, prior to the
176 search of a person, vehicle, home, or property:

177 (1) Explain, using plain and simple language delivered in a calm demeanor, that the
178 subject of the search is being asked to voluntarily, knowingly, and intelligently consent to a search;

179 (2) Advise the subject that a search will not be conducted if the subject refuses to
180 provide consent to the search;

181 (3) Obtain consent to search without threats or promises of any kind being made to
182 the subject;

183 (4) Confirm that the subject understands the information communicated by the
184 officer; and

185 (5) Use interpretation services when seeking consent to conduct a search of
186 a person:

187 (A) Who cannot adequately understand or express themselves in
188 spoken or written English; or

189 (B) Who is deaf or hard of hearing.

190 (b) If the sworn member is unable to obtain consent from the subject, the sworn member
191 shall refrain from conducting the search.

192 (c) The requirements of subsection (a) of this section shall not apply to a sworn member:

193 (1)(A) Conducting a search of a person, vehicle, home, or property where the search
194 is predicated upon entrance to a public building or facility, location, event, gathering, or Metrorail
195 facility; and

196 (B) The subject's entrance into the location constitutes implied consent to
197 be searched under an exception to the warrant requirement; or

198 (2) Who reasonably believes that exigent circumstances require immediate action
199 by law enforcement to prevent the imminent:

200 (A) Infliction of bodily injury;

201 (B) Damage to property;

202 (C) Escape of a suspect; or

203 (D) Destruction of evidence.

204 (d) If a defendant moves to suppress any evidence obtained in the course of the search for
205 an offense prosecuted in the Superior Court of the District of Columbia, the court shall consider
206 an officer's failure to comply with the requirements of this section as a factor in determining the
207 voluntariness of the consent.

208 (e) The provisions of this section shall not be construed to create a private right of action
209 or serve as the basis for excluding otherwise admissible evidence in a criminal proceeding.

210 **SUBTITLE H: MANDATORY CONTINUING EDUCATION EXPANSION;**
211 **RECONSTITUTING THE POLICE OFFICERS STANDARDS AND TRAINING BOARD**

212 **Sec. 108. The Omnibus Police Reform Amendment Act of 2000, effective October 4, 2000**
213 **(D.C. Law 13-160; D.C. Official Code § 5-107.02), is amended as follows:**

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

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

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

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

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

220 “(4) Prohibition on the use of neck restraints;”.

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

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

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

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

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

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

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

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

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

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

239 “(2A) Director of the Office of Police Complaints or the Director’s designee;”

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

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

243 (D) Paragraph (8) is amended by striking the period and inserting a
244 semicolon in its place.

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

246 “(9) Six community representatives appointed by the Mayor, one each with
247 expertise in the following areas:

248 “(A) Oversight of law enforcement;

249 “(B) Juvenile justice reform;

250 “(C) Criminal defense;

251 “(D) Gender-based violence social services, policy, or advocacy;

252 “(E) LGBTQ social services, policy, or advocacy; and

253 “(F) Violence prevention or intervention.”.

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

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

259 “(9A) If the applicant has prior service with another law enforcement or public
260 safety agency in the District or another jurisdiction, information on any alleged or sustained
261 misconduct or discipline imposed by that law enforcement or public safety agency;”.

262 SUBTITLE I. IDENTIFICATION OF MPD OFFICERS DURING FIRST
263 AMENDMENT ASSEMBLIES AS LOCAL LAW ENFORCEMENT

264 Sec. 109. Section 109 of the First Amendment Assemblies Act of 2004, effective April 13,
265 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.09), is amended as follows:

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

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

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

270 TITLE II. BUILDING SAFE AND JUST COMMUNITIES

271 SUBTITLE A. REPEAL OF LAW ENFORCEMENT REPORTING REQUIREMENT
272 FOR CRIME VICTIMS COMPENSATION

273 Sec. 201. Section 7 of the Victims of Violent Crime Compensation Act of 1996, effective
274 April 9, 1997 (D.C. Law 11-243; D.C. Official Code § 4-506), is amended as follows:

275 (a) Subsection (a) is amended as follows:

276 (1) Paragraph (1) is amended by striking the semicolon and inserting the phrase “;
277 and” in its place.

278 (2) Paragraph (2) is amended by striking the phrase “; and” and inserting a period
279 in its place.

280 (3) Paragraph (3) is repealed.

281 (b) Subsection (c) is repealed.

282 SUBTITLE B. RESTORE THE VOTE

283 Sec. 202. Enfranchisement for individuals serving felony sentences in the care of the
284 Department of Corrections.

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

287 (a) Section 2(2) (D.C. Official Code § 1-1001.02(2)) is amended by striking the phrase “the
288 District; and” and inserting the phrase “the District; provided, that for the purposes of this
289 paragraph, the term “felony” shall not include a crime that is a felony in the District for which a
290 person in the care of the Department of Corrections is currently incarcerated; and” in its place.

291 (b) Section 5 (D.C. Official Code § 1-1001.02(2)) is amended by adding a new paragraph
292 (9B) to read as follows:

293 “(9B) For the November 3, 2020 General Election, provide the following to every eligible
294 individual in the Department of Corrections’ care:

295 “(A) A voter registration form;

296 “(B) A voter guide; and

297 “(C) Without first requiring an absentee ballot application to be submitted, an
298 absentee ballot.”.

299 SUBTITLE C. DEPARTMENT OF CORRECTIONS HOME CONFINEMENT
300 EVALUATION REQUIREMENT

301 Sec. 204. Section 2(b) of An Act To create a Department of Corrections in the District of
302 Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.02(b)), is amended
303 as follows:

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

306 (b) Paragraph (9) is amended by striking the period and inserting the phrase “; and” in its
307 place.

308 (c) A new paragraph (10) is added to read as follows:

309 “(10) On a weekly basis, identify and evaluate eligible individuals in the
310 Department’s care for the purpose of transitioning them to home confinement pursuant to 18
311 U.S.C. § 3624(c)(2) and applicable guidance, and provide the names of the individuals identified
312 and evaluated, and the outcomes of the evaluations and transitions, to the Council Committee with
313 jurisdiction over the Department of Corrections.”.

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

315 Sec. 301. Applicability

316 Section 107 of this act shall apply as of August 1, 2020.

317 Sec. 302. Fiscal impact statement.

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

321 Sec. 303. Effective date.

322 This act shall take effect following approval by the Mayor (or in the event of veto by the
323 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
324 90 days, as provided for emergency acts of the Council of the District of Columbia in section
325 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
326 D.C. Official Code § 1-204.12(a)).