

SPECIAL ORDER



Title
**Omnibus Public Safety and Justice
Emergency Amendment Act of 2009**

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SO-09-04

Effective Date
August 27, 2009

DISTRICT OF COLUMBIA

On July 31, 2009, the Council of the District of Columbia passed the *Omnibus Public Safety and Justice Emergency Amendment Act of 2009*. Pending return of the permanent legislation from Congress, the *Omnibus Public Safety and Justice Emergency Amendment Act of 2009* (*Omnibus Emergency Act of 2009*) was signed by Mayor Fenty on August 6, 2009, and immediately became effective. The Omnibus Emergency Act of 2009 shall remain in effect until November 4, 2009. The Omnibus Emergency Act of 2009 will be extended if the permanent Act has not yet been returned from Congress on or before November 4, 2009.

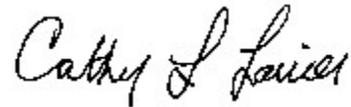
The *Omnibus Public Safety and Justice Emergency Amendment Act of 2009* establishes new criminal offenses, enhances penalties, and amends many existing District of Columbia laws. These new and amended provisions will provide Metropolitan Police Department (MPD) officers additional law enforcement options and tools.

Offenses that occurred on and after August 6, 2009, 1425 hours, may be handled in accordance with the provisions of the *Omnibus Emergency Act of 2009*. Until the Office of the Chief Technology Officer has established the new offenses within the MPD's records management system, the offenses created by the Act should be processed under "Other Felony" or "Other Misdemeanor," as appropriate.

Summaries of the offenses and related guidelines follow. A copy of the *Omnibus Public Safety and Justice Emergency Amendment Act of 2009* can be found on the MPDC Inside webpage, under "Policies and Procedures."

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Cathy L. Lanier
Chief of Police

Offenses: New or Repealed	
A)	<i>Presence in a Vehicle Containing a Firearm (New)</i>
Prohibits	Voluntarily being in a motor vehicle if that person knows that a firearm is in the vehicle, unless the firearm is being lawfully carried or lawfully transported.
Penalty	Fine of not more than \$5,000, imprisonment for not more than five (5) years or both. Fine of not more than \$10,000, imprisonment for not more than ten (10) years for a person previously convicted of a felony or a firearms offense.
Need to Know	It shall be an affirmative defense to this offense, which the defendant must prove by a preponderance of the evidence, that the defendant, upon learning that a firearm was in the vehicle, had the specific intent to immediately leave the vehicle, but did not have a reasonable opportunity under the circumstances to do so. If an officer sees a firearm in plain view in the passenger compartment of a vehicle that is not possessed by someone authorized to carry it, he can arrest any occupant who was in a position to see it or otherwise know that it was there. It is no longer necessary to prove that the occupant had the power or intent to possess the firearm (constructive possession). Knowledge can be proven by where the firearm was located or a statement by an occupant that discloses that he or others knew that the gun was there. The occupants have to be in the vehicle voluntarily. If any occupant is willing to talk after Miranda rights, it is important to ascertain when the occupant(s) became aware the firearm was in the vehicle, where the vehicle went subsequently, how much time elapsed until the vehicle was stopped, and whether anyone in the vehicle had tried or asked to get out of the vehicle.
Reminder	<p>A District resident may transport a firearm to or from a lawful recreational firearm-related activity in the District or to or from another jurisdiction provided that:</p> <ol style="list-style-type: none"> 1. Upon demand of any law enforcement officer, the resident presents: <ol style="list-style-type: none"> a. A valid DC registration certificate. A person is only allowed to transport an <i>unregistered</i> firearm between his/her home, a DC Dealer and the MPD Firearms Registration Section (FRS) during regular FRS business hours (Monday-Friday, 0900 to 1700). b. Proof that he/she is on his/her way to or from a lawful activity in DC. 2. If transporting a firearm in a vehicle: <ol style="list-style-type: none"> a. It must be unloaded, and with neither the firearm nor any ammunition readily accessible or directly accessible from the driver's compartment. b. If the vehicle does not have a compartment separate from the driver's compartment, the gun must be unloaded, and either the gun or the ammunition contained in a locked container other than the glove compartment or console. 3. If transporting a firearm in a manner other than a vehicle, it must be unloaded, inside a locked container, and separate from the ammunition. <p>If the person transporting the weapon is not a resident of the District of Columbia, under 18 USCS §§ 9216A, any person who is not otherwise prohibited by federal law [18 USCS §§ 921 et seq.] from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose <i>from</i> any place where he may lawfully possess and carry such firearm <i>to</i> any other place where he may lawfully possess and carry such firearm, provided that the firearm is transported in compliance with sections 2 and 3, above.</p>
Reference	Omnibus Emergency Act of 2009 § 101 (page 3); Not yet codified

<p>(B)</p> <p>Prohibits</p> <p>Penalty</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Unlawful Entry of a Motor Vehicle (New)</i></p> <p>A person from entering or being inside of the motor vehicle of another person without the permission of the owner or person lawfully in charge of the motor vehicle.</p> <p>Fine of not more than \$500, imprisonment for not more than 90 days, or both.</p> <p>This offense is a probable cause misdemeanor (see page 17 of this Special Order).</p> <p>This section shall not apply to:</p> <ol style="list-style-type: none"> (1) An employee of the District government in connection with official duties; (2) A tow crane operator who has valid authorization from the District government or from the property owner on whose property the motor vehicle is illegally parked; or (3) A person with a security interest in the motor vehicle who is legally authorized to seize the motor vehicle. <p>For the purposes of this section, the term “enter the motor vehicle” means to insert any part of one’s body into any part of the motor vehicle, including the passenger compartment, the trunk or cargo area, or the engine compartment.</p> <p><i>Omnibus Emergency Act of 2009 § 102 (page 4); Not yet codified</i></p>
<p>(C)</p> <p>Prohibits</p> <p>Penalty</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Tampering with a Detection (GPS) Device (New)</i></p> <p>A person who is required to wear a device as a condition of a protection order, pretrial, pre-sentence, or predisposition release, probation, supervised release, parole, or commitment, from:</p> <ol style="list-style-type: none"> (1) Intentionally removing or altering the device, or intentionally interfering with or masking, or attempting to interfere with or mask the operation of the device; or (2) Intentionally allowing any unauthorized person to remove or alter the device, or to intentionally interfere with or mask or attempt to interfere with or mask the operation of the device. <p>Fine of not more than \$1,000, imprisonment for not more than 180 days, or both.</p> <p>This offense is a probable cause misdemeanor (see page 17 below).</p> <p>For the purposes of this subsection, the term "device" includes a bracelet, anklet, or other equipment with electronic monitoring capability or global positioning system technology.</p> <p><i>Omnibus Emergency Act of 2009 § 103 (page 4); Not yet codified</i></p>
<p>(D)</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Vagrancy (Repealed)</i></p> <p><i>An Act To define and punish vagrancy in the District of Columbia</i> is repealed.</p> <p><i>Omnibus Emergency Act of 2009 § 216 (pg 24), D.C. Official Code § 22-3501 et seq.</i></p>

<p>(E)</p> <p>Prohibits</p> <p>Penalty</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Violation of the Gun Offender Registry (New)</i></p> <p>Any knowing violation by a gun offender of this title or of rules or regulations established pursuant to this title, including knowingly failing to register, verify, or update information in the manner and within the required time periods.</p> <p>Fine of not more than \$1,000, imprisonment of not more than 12 months, or both.</p> <p>Arrests for this offense will likely be made by the Gun Offender Registry Unit or by warrant.</p> <p><i>Omnibus Emergency Act of 2009 § 205 (pages 9-13); Not yet codified</i></p>
<p>(F)</p> <p>Prohibits</p> <p>Penalty</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Stalking (Old Law Repealed, New Offense)</i></p> <p>A person from purposefully engaging in two (2) or more incidents directed at a specific individual:</p> <p>(1) With the intent to cause that individual to:</p> <p>(A) Fear for his or her safety or the safety of another person; or</p> <p>(B) Feel seriously alarmed, disturbed, or frightened; or</p> <p>(C) Suffer emotional distress;</p> <p>(2) That the person knows would cause that individual reasonably to:</p> <p>(A) Fear for his or her safety or the safety of another person; or</p> <p>(B) Feel seriously alarmed, disturbed, or frightened; or</p> <p>(C) Suffer emotional distress; or</p> <p>(3) That the person should have known would cause a reasonable person in the individual's circumstances to:</p> <p>(A) Fear for his or her safety or the safety of another person; or</p> <p>(B) Feel seriously alarmed, disturbed, or frightened; or</p> <p>(C) Suffer emotional distress.</p> <p>Fine of not more than \$1,000, imprisonment for not more than 12 months, or both, except if the person:</p> <p>(1) At the time, was subject to a court, parole, or supervised release order prohibiting contact with the specific individual;</p> <p>(2) Has one prior conviction in any jurisdiction of stalking any person within the previous ten (10) years;</p> <p>(3) At the time, was at least four (4) years older than the specific individual and the specific individual was less than 18 years of age; or</p> <p>(4) Caused more than \$ 2,500 in financial injury.</p> <p>For (1) through (4) above, the fine is not more than \$10,000, the imprisonment not for more than five (5) years, or both.</p> <p>If the person has two or more prior stalking convictions, at least one of which was for a jury demandable offense, the fine is not more than \$25,000, the imprisonment not more than ten (10) years, or both.</p> <ul style="list-style-type: none"> • This section does not apply to constitutionally protected activities. • Where a single act is of a continuing nature, each 24-hour period constitutes a separate occasion. • The conduct on each occasion need not be the same as it is on the others. <p><i>Omnibus Emergency Act of 2009 Title V (page 33); Not yet codified</i></p>

<i>Amendments to Existing Offenses and Penalties</i>	
(G)	<i>Obstructing Justice</i>
Need to know	The offense that addresses retaliation for testifying has been expanded from "injures any person or his or her property" to "injures or threatens to injure any person or his or her property".
Reference	<i>Omnibus Emergency Act of 2009 § 214(m)</i> (page 23), D.C. Official Code § 22-722
(H)	<i>Schedule I Controlled Substances</i>
Provides	Adds "Cathinone" to Schedule I of the <i>District of Columbia Uniform Controlled Substances Act</i> .
Need to Know	"Cathinone" is better known as fresh Khat (pronounced as COT). Alternative spellings include "QUAT," and "QAT".
Reference	<i>Omnibus Emergency Act of 2009 § 225</i> (page 28), D.C. Official Code § 48-902.04
(I)	<i>Distracted Driving: Texting</i>
Prohibits	The Distracted Driving Safety Act of 2004 is amended to specifically prohibit Texting While Driving.
Penalty	Fine of \$100.
Need to Know	The DMV T-code for this offense is T-590 Distracted Driving , the same T-code for all other Distracted Driving violations. For any Distracted Driving violation other than texting , the fine shall be suspended if a first time violator acquires a hands-free device before adjudication. Therefore if the violation is for texting, it is important to note this on the Notice of Infraction. "Text" or "Texting" means using an electronic wireless communications device to compose, send, receive, or read a written message or image using a text-based communication system, including communications referred to as a text message, instant message, or electronic mail. "Use" (D.C. Official Code § 50-1731.02(5)) has been modified to include texting and includes all wireless communications devices, including a mobile telephone.
Reference	<i>Omnibus Emergency Act of 2009 § 227</i> (page 29), D.C. Official Code § 50-1731.02

<p>(J)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Evidence of Intoxication</i></p> <p>If as a result of the operation or the physical control of a vehicle, a person is tried in any court of competent jurisdiction within the District of Columbia for operating or being in physical control of a vehicle while under the influence of intoxicating liquor in violation of § 50-2201.05(b), negligent homicide in violation of § 50-2203.01, or manslaughter committed in the operation of a vehicle in violation of § 22-2105, and in the course of the trial there is received, based upon a chemical test, evidence of alcohol in the defendant's blood, urine, or breath, such evidence:</p> <p>(1) Shall, if at the time of testing, defendant's alcohol concentration was <u>less than 0.05 grams</u> per 100 milliliters of blood or per 210 liters of breath or 0.06 grams or less per 100 milliliters of urine, establish a rebuttable presumption that the defendant was not, at the time, under the influence of intoxicating liquor.</p> <p>(2) If at the time of testing, defendant's alcohol concentration was <u>0.05 grams or more</u> per 100 milliliters of blood or per 210 liters of breath or more than 0.06 grams per 100 milliliters of urine, but less than 0.08 grams per 100 milliliters of blood or per 210 liters of breath or less than 0.10 grams per 100 milliliters of urine, this evidence shall constitute prima facie proof that the defendant was, at the time, under the influence of intoxicating liquor.</p> <p>The previous standard for a <i>prima facie</i> case of Under the Influence of Intoxicating Liquor was <u>more than 0.05 grams</u>, but less than 0.08 grams per 100 milliliters of blood.</p> <p><i>Omnibus Emergency Act of 2009</i> § 229 (page 31), D.C. Official Code § 50-2205.02</p>
<p>(K)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Bias-Related Crimes</i></p> <p>"Homelessness" is added as a protected class under the Bias-Related Crime Act of 1989.</p> <p>"Homelessness" means:</p> <p>(A) The status or circumstance of an individual who lacks a fixed, regular, and adequate nighttime residence; or</p> <p>(B) The status or circumstance of an individual who has a primary nighttime residence that is:</p> <p>(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare motels, hotels, congregate shelters, and transitional housing for the mentally ill;</p> <p>(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or</p> <p>(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.</p> <p>Crimes against homeless person that are motivated by hate or bias may now be classified as hate crimes and should be handled pursuant to SO-01-16 (Bias-Related Hate Crimes, Effective Date July 2, 2001).</p> <p><i>Omnibus Emergency Act of 2009</i> § 217 (page 24), D.C. Official Code § 22-3701</p>

<p>(L)</p> <p>Provides</p> <p>Reference</p>	<p><i>Repeat Violent Offenders</i></p> <p>If a person is convicted in the District of Columbia of a crime of violence as defined by section § 22-4501, having previously been convicted of two (2) prior crimes of violence not committed on the same occasion, the court, in lieu of the term of imprisonment authorized, shall impose a term of imprisonment of not less than fifteen (15) years and may impose such greater term of imprisonment as it deems necessary up to, and including, life without possibility of release.</p> <p><i>Omnibus Emergency Act of 2009 § 208 (page 14), D.C. Official Code § 22-1804a(2)</i></p>
<p>(M)</p> <p>Provides</p> <p>Penalty</p> <p>Reference</p>	<p><i>Conspiracy to Commit Crime</i></p> <p>Increases the maximum penalty for conspiracy to commit a crime of violence as defined in D.C. Official Code § 23-1331(4).</p> <p>The lesser of:</p> <ul style="list-style-type: none"> • The maximum fine and imprisonment prescribed for the planned crime of violence; or • A fine of no more than \$3,000, imprisonment of not more than fifteen (15) years, or both. <p><i>Omnibus Emergency Act of 2009 § 209 (page 14), D.C. Official Code §22-1805a(a)(2)</i></p>
<p>(N)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Engaging and Soliciting for Prostitution</i></p> <p>This section enhances the penalties for second and subsequent prostitution convictions.</p> <p>The penalty for a second offense is increased from a maximum of \$750 to \$1,000 and from a maximum of 135 to 180 days. The penalty for a third or greater offense is increased from a maximum of \$1,000 to \$4,000 and from a maximum of 180 days to two (2) years.</p> <p><i>Omnibus Emergency Act of 2009 § 211 (page 18), D.C. Official Code § 22-2701</i></p>

(O)	<i>Introducing Contraband into Penal Institution</i>
Provides	<p>This section expands the items that are considered to be contraband in the jail and other secure facilities (including juvenile residential facilities) owned and operated by the District of Columbia. Three (3) classes of contraband are defined:</p> <ul style="list-style-type: none"> • Class A includes weapons, drugs, anything that can be used to facilitate an escape, and anything that is generally illegal; • Class B includes cellular telephones and other portable communication devices; alcoholic beverages, and hypodermic needle, syringes, and other items that can be used for the administration of unlawful controlled substances; and • Class C includes items promulgated in rulemaking. <p>The Warden of a penal institution may take into custody and detain any person violating this subsection for two (2) hours, pending surrender to MPD.</p>
Prohibits	<ul style="list-style-type: none"> • Knowingly bringing, or causing another to bring, the contraband into or upon the grounds with the intent that it be given to or received by an inmate or securely detained juvenile or knowingly placing the contraband in such proximity with the intent to give an inmate, a securely detained juvenile, a staff member, or a visitor access to the contraband. • An inmate or securely detained juvenile from possessing the contraband, regardless of intent. • A staff member to fail to report any knowledge of a violation of the contraband statute.
Penalty	<ul style="list-style-type: none"> • Class A: Fine of not more than \$10,000, imprisonment for not more than ten (10) years, or both; • Class B: Fine of not more than \$2,000, imprisonment of not more than two (2) years, or both; • Class C: Administrative penalty prescribed by the Department of Corrections or Department of Youth Rehabilitation Services. • Failure to report a violation: Fine of not more than \$1,000, imprisonment of not more than one (1) year, or both.
Need to Know	<p>Items listed as contraband are lawful when issued by the institution and used by employees in connection with official duties or when issued by a law enforcement agency to sworn officers and used by officers in connection with official duties. Attorneys and their representatives/agents may use cellular telephones or other portable communication devices for the purpose of legal visits.</p>
Reference	<i>Omnibus Emergency Act of 2009 § 210 (page 15), D.C. Official Code §22-2603</i>

<p>(P)</p> <p>Provides</p> <p>Penalty</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Theft and White Collar Crimes</i></p> <p>"Person" and "value" are defined and the definition of "property" is expanded as follows:</p> <ul style="list-style-type: none"> • "Person" means an individual (whether living or dead), trust, estate, fiduciary, partnership, company, corporation, association, organization, union, government department, agency, or instrumentality, or any other legal entity. • "Property," in addition to real property, tangible/intangible personal property, and services also includes credit, debt, and a government-issued license, permit, or benefit. • "Value" with respect to a credit card, check, or other written instrument means the amount of money, credit, debt, or other tangible property or services that has been or can be obtained through its use, or the amount promised or paid by the credit card, check, or other written instrument. <p>The Act also clarifies that the case can be referred to another jurisdiction for investigation, as appropriate.</p> <p>The monetary element for Theft in the First Degree has been increased from \$250 or more to \$1,000 or more. The monetary element for Theft in the Second Degree has been changed from "if the value of the property obtained or used is less than \$250" to "if the property obtained or used has some value."</p> <p>For more information, please refer to the Act or contact the Financial Crimes and Fraud Unit (727.4159).</p> <p><i>Omnibus Emergency Act of 2009</i> § 214 (a)-(d) (page 19), D.C. Official Code § 22-3201, §22-3203, and §22-3212</p>
<p>(Q)</p> <p>Provides</p> <p>Penalty</p> <p>Reference</p>	<p><i>Unauthorized Use of Motor Vehicles</i></p> <p>The wording of the offense has been simplified to read: "A person commits the offense of unauthorized use of a motor vehicle under this subsection if, without the consent of the owner, the person takes, uses, or operates a motor vehicle, or causes a motor vehicle to be taken, used, or operated, for his or her own profit, use, or purpose."</p> <p>If a person uses a stolen vehicle during the course of or to facilitate a crime of violence, the Act establishes an additional penalty that shall be served consecutive to that imposed for the crime of violence. Information on additional amendments to the penalties can be found in Section 214 of the <i>Omnibus Emergency Act of 2009</i>.</p> <p><i>Omnibus Emergency Act of 2009</i> § 214 (e) (page 20), D.C. Official Code § 22-3215</p>

(R)	<i>Credit Card & Insurance Fraud</i>
Provides	<p>Definition: "Credit card" has been expanded to include all cards issued (not just to a person) for "obtaining or paying for property or services" rather than just "obtaining property or services".</p> <p>Prohibitions: The categories of illegal conduct have been expanded to include "Knowingly using for the employee's or contractor's own purposes a credit card, or the number or description thereof, issued to or provided to an employee or contractor by or at the request of an employer for the employer's purposes."</p> <p>Jurisdiction: The jurisdiction for fraud, including credit card and insurance fraud, has been revised and expanded to address modern criminal problems, such as cases in which it is difficult to determine where a credit card was actually used or a fraud took place, or in which the victim – whether an individual or a business or organization – is here, and the harm is elsewhere.</p>
Penalty	<p>The monetary element of the felony offense has been increased from \$250 or more to \$1,000 or more (i.e., fine of not more than \$5,000 or imprisonment of not more than ten (10) years, or both, if the value of the property or services obtained or paid for is \$1,000 or more).</p>
Need to Know	<p>For more information, please refer to the Act or contact the Financial Crimes and Fraud Unit (727.4159).</p>
Reference	<p><i>Omnibus Emergency Act of 2009</i> § 214 (f)-(h) (page 21), D.C. Official Code § 22-3223, § 22-3224.01 and § 22-3225.15</p>

(S)	Identity Theft
Provides	<p>The offense has been expanded to include a person who knowingly:</p> <p>(3) Uses personal identifying information belonging to or pertaining to another person, without that person's consent, to:</p> <ul style="list-style-type: none"> (A) Identify himself or herself at the time of his or her arrest; (B) Facilitate or conceal his or her commission of a crime; or (C) Avoid detection, apprehension, or prosecution for a crime. <p>"Financial injury" has been expanded to include lost time, wages, benefits, legal fees, and other expenses incurred as a result of an identity theft.</p> <p>The jurisdiction for Identity Theft has been changed from requiring that the person from whom the personal identifying information has been improperly obtained, created, or possessed be a resident of the District of Columbia to "be a resident of, or located in, the District of Columbia.</p>
Penalty	<p>The monetary element for Identity Theft in the First Degree has been increased from \$250 to \$1,000. The monetary element for Identity Theft in the Second Degree has been changed from "less than \$250" to "has some value, or if another person is falsely accused of, or arrested for, committing a crime because of the use, without permission, of that person's personal identifying information."</p>
Need to Know	<p>For more information, please refer to the Act or contact the Financial Crimes and Fraud Unit (727.4159).</p>
Reference	<p><i>Omnibus Emergency Act of 2009</i> § 214 (i)-(l) (page 22), D.C. Official Code § 22-3227.01, § 22-3227.02, § 22-3227.03 and § 22-3227.06</p>

(T)	<p><i>Unlawful Possession of a Firearm</i></p>
<p>Provides</p>	<p>The categories of persons who may be charged with “unlawful possession of a firearm” has been expanded to include certain persons prohibited under federal law from possessing a firearm. Persons are prohibited from possessing a firearm within the District of Columbia if the person:</p> <ol style="list-style-type: none"> (1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year; (2) Is not licensed under section 10 to sell weapons, and the person has been convicted of violating this act; (3) Is a fugitive from justice; (4) Is addicted to any controlled substance as defined in D.C. Official Code § 48-901.02(4); (5) Is subject to a court order that: <ol style="list-style-type: none"> (A) (i) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate; or (ii) Remained in effect after the person failed to appear for a hearing of which the person received actual notice; (B) Restrains the person from assaulting, harassing, stalking, or threatening the petitioner or any other person named in the order; and (C) Requires the person to relinquish possession of any firearms (as provided in D.C. Official Code § 16-1005(c)(10)); (6) Has been convicted of an intrafamily offense (as defined in D.C. Official Code § 16-1001) or a substantially similar offense in another jurisdiction.
<p>Penalty</p>	<ul style="list-style-type: none"> • Subsection (1): The one (1) year mandatory minimum for unlawful possession of a firearm by a convicted felon has been increased to three (3) years when the prior felony conviction is for a crime of violence. The maximum has been raised from ten (10) to fifteen (15) years. • Subsections (2) through (6): Fined not more than \$15,000, imprisonment for not less than two (2) years nor more than ten (10) years, or both.
<p>Need to Know</p>	<p>“Fugitive from justice” means a person who has:</p> <ol style="list-style-type: none"> (A) Fled to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding; or (B) Escaped from a federal, state, or local prison, jail, halfway house, or detention facility or from the custody of a law enforcement officer. <p>Expanding the list will support charges of Unlawful Possession, which carries a higher penalty than Unregistered Firearm, for some individuals prohibited under federal law from possessing a firearm. This will also allow prosecution in the DC Superior Court.</p>
<p>Reference</p>	<p><i>Omnibus Emergency Act of 2009 § 219(b) (page 25), D.C. Official Code § 22-4503</i></p>

<p>(U)</p> <p>Provides</p> <p>Penalty</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Unlawful Entry on Property</i></p> <p>Two separate types of unlawful entry are established, one for private property and one for public property.</p> <p>The maximum fine for offenses involving a private dwelling, building, or property, or a part thereof, is a fine of \$1,000 and imprisonment for not more than 180 days (i.e., is non-jury demandable).</p> <p>The maximum penalty for an offense on public property is a fine of \$1,000, imprisonment for not more than six (6) months, or both.</p> <p>This amendment allows most unlawful entry trials to proceed without a jury, while allowing for a trial jury for unlawful entry of demonstrators and/or others on public property.</p> <p>A "private dwelling" is now defined as any privately owned house, apartment, condominium or any other building used as living quarters, or cooperative or public housing.</p> <p><i>Omnibus Emergency Act of 2009 § 215 (page 23), D.C. Official Code § 22-3302</i></p>
<p><i>Procedural Amendments</i></p>	
<p>(V)</p> <p>Provides</p> <p>Need to Know</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Disclosure of Mental Health Information</i></p> <p>Mental health information may be disclosed, on an emergency basis, to an officer authorized to make arrests in the District of Columbia if the mental health professional reasonably believes that such disclosure is necessary to initiate or seek emergency hospitalization of the client under D.C. Official Code § 21-521 or to otherwise protect the client or another individual from a substantial risk of imminent and serious physical injury.</p> <p>Any disclosure of mental health information under this section shall be limited to the minimum necessary to initiate or seek emergency hospitalization of the client under D.C. Official Code § 21-521 or to otherwise protect the client or another individual from a substantial risk of imminent and serious physical injury.</p> <p>-----</p> <p>A mental health professional or mental health facility may disclose to a correctional institution or a law enforcement official having lawful custody of an individual mental health information about the individual to facilitate the delivery of mental health services and mental health supports to the individual.</p> <p>Any disclosure of mental health information under this section shall be limited to the minimum necessary to facilitate the delivery of mental health services and mental health supports.</p> <p>For a complete list of entities or persons to which this information may be disclosed, please refer to the <i>Omnibus Emergency Act of 2009</i>.</p> <p><i>Omnibus Emergency Act of 2009 § 204 (page 8), D.C. Official Code § 7-1203.03 and § 7-1203.05a and b</i></p>

<p>(W)</p> <p>Provides</p> <p>Reference</p>	<p><i>Spouse or Domestic Partner Privilege</i></p> <p>The spouse/domestic partner privilege has been eliminated where:</p> <ol style="list-style-type: none"> (1) a spouse/partner commits intimate partner violence if the privilege has previously been asserted by the other; (2) a spouse/partner commits a crime against a child, minor or vulnerable adult who is related to, is in the custody of, or resides temporarily or permanently in the household of one of the spouses or domestic partners; (3) a spouse/partner is charged with committing a crime jointly with the other spouse/domestic partner; (4) the events or communications occurred before the marriage/partnership; and (5) a civil proceeding involving the abuse, neglect, abandonment, custody, or dependency of a child, minor, or vulnerable adult who is related to, is in the custody of, or resides temporarily or permanently in the household of one of the spouses or domestic partners. <p><i>Omnibus Emergency Act of 2009 § 206 (page 13), D.C. Official Code § 14-306</i></p>
<p>(X)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Physician Patient Privilege</i></p> <p>The proceedings in which otherwise protected information can be disclosed has been expanded to include grand jury, delinquency, family, and domestic violence proceedings and to a proceeding where a person is targeted for injuring a human being or attempting or threatening to kill or injure a human being, or a report has been filed with the police pursuant to D.C. Code § 7-2601 (Reporting of Injuries Caused by Firearms or Other Dangerous Weapons).</p> <p>For this provision, “injury” includes, in addition to physical damage to the body, a sexual act or sexual contact prohibited by Chapter 30 of Title 22.</p> <p><i>Omnibus Emergency Act of 2009 § 207 (page 14), D.C. Official Code § 14-307</i></p>
<p>(Y)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Prostitution Free Zones</i></p> <p>This section increases the maximum period for a prostitution free zone (PFZ) from 240 hours to 480 consecutive hours.</p> <p>District Commanders may request the establishment of a PFZ for a period not to exceed 480 consecutive hours. Additional guidance on any changes to the procedures for PFZs will be forthcoming.</p> <p><i>Omnibus Emergency Act of 2009 § 212 (page 19), D.C. Official Code § 22-2731</i></p>

<p>(Z)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Drug Free Zones</i></p> <p>The maximum time period for a drug free zone (DFZ) is increased from 240 hours to 480 consecutive hours.</p> <p>In addition to the existing factors, the Chief of Police may now consider any of the following occurrences in the proposed DFZ within the preceding six (6) month period:</p> <ul style="list-style-type: none"> • Police reports for dangerous crimes (as defined in D.C. Official Code § 23-1331(3)); or • Police reports for crimes of violence (as defined in D.C. Official Code § 23-1331(4)). <p>Further, the Chief of Police may consider "any number of homicides that were committed in the proposed drug free zone." Previously, the standard was homicides related to the possession or distribution of illegal drugs that occurred within the preceding six (6) month period.</p> <p>District Commanders may ask to establish a DFZ for up to 480 consecutive hours and cite as supporting reason(s) the categories of information enumerated above. Additional guidance on any changes to the procedures for DFZs will be forthcoming.</p> <p><i>Omnibus Emergency Act of 2009 § 226 (page 28), D.C. Official Code § 48-1002</i></p>
<p>(AA)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Time of Execution of Search Warrants</i></p> <p>For the requirement that "a search warrant may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to section 23-521(f)(5), shall be executed only during the hours of daylight," "hours of daylight" has been defined as between 6:00 a.m. and 9:00 p.m.</p> <p>This expands the hours for which a search warrant can be executed without express authorization.</p> <p><i>Omnibus Emergency Act of 2009 § 221 (page 27), D.C. Official Code § 23-523</i></p>

<p>(BB)</p> <p>Provides</p> <p>Reference</p>	<p><i>Probable Cause Misdemeanors</i></p> <p>The Act establishes four (4) new probable cause misdemeanors.</p> <ul style="list-style-type: none"> • An officer may arrest a person without a warrant if the officer has probable cause to believe the person has committed or is about to commit the following offenses, and unless immediately arrested, may not be apprehended, may cause injury to others, or may tamper with, dispose of, or destroy evidence: <ul style="list-style-type: none"> • Voyeurism (D.C. Official Code § 22-3531) • Malicious burning, destruction or injury of another's property (D.C. Official Code § 22-303) • An officer may arrest a person without a warrant if the officer has probable cause to believe the person has committed the following offense: <ul style="list-style-type: none"> • Unlawful entry of a motor vehicle (as provided in Section 102 of the <i>Omnibus Emergency Act of 2009</i>, not yet codified) • Tampering with a detection [GPS] device (as provided in Section 103 of the <i>Omnibus Emergency Act of 2009</i>, not yet codified) <p><i>Omnibus Emergency Act of 2009</i> § 222 (page 27), D.C. Official Code § 23-581</p>
<p>(CC)</p> <p>Provides</p> <p>Need to Know</p> <p>Reference</p>	<p><i>Pretrial Detention</i></p> <p>This section creates a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person or the community if the Court finds by probable cause (i.e., replacing the former standard of "substantial probability") that the person committed the offenses listed in the section.</p> <p>The offenses subject to pretrial detention have been expanded to include: carrying a rifle or shotgun (§ 22-4504(a-1)), possession of a firearm during the commission of a crime of violence or dangerous crime (§ 22-4504(b)), unlawful possession of a firearm (§ 22-4503), presence in a motor vehicle containing a firearm (<i>Omnibus Emergency Act of 2009</i> § 101, not codified yet), or violation of the Gun Offender Registry committed while already under supervision for a conviction of committing a violent crime while armed (<i>Omnibus Emergency Act of 2009</i> § 102, not codified yet).</p> <p>A "rebuttable presumption" is an assumption made by a court that is taken to be true unless someone comes forward to contest it and prove otherwise.</p> <p><i>Omnibus Emergency Act of 2009</i> § 223 (page 27), D.C. Official Code § 23-1322</p>