

Government of the District of Columbia
Executive Office of the Mayor



FOR IMMEDIATE RELEASE

October 3, 2008

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Fenty Administration Introduces Anti-Crime Bill

WASHINGTON, D.C. — Mayor Adrian M. Fenty today introduced the Omnibus Anti-Crime Amendment Act of 2008 to strengthen penalties for possession of illegal guns and give law enforcement more tools to fight crime and improve enforcement options against gangs. The legislation is the result of a partnership between the Fenty Administration and the United States Attorney for the District of Columbia and modernizes various provisions of the criminal code.

“This legislation reflects my strong commitment to keep guns out of the hands of repeat felony offenders even as the District works to comply with the Supreme Court’s decision in *District of Columbia v. Heller*. It also sends a message to the courts that gun offenders should be detained pre-trial and, after conviction, face strict mandatory minimum penalties,” said Mayor Fenty.

“We want to send a clear message that the District will not tolerate criminal acts committed with guns,” said Metropolitan Police Department Chief Lanier. “In particular we must get repeat offenders who terrorize our neighborhoods with guns off the street.”

The bill also provides law enforcement with new ways of combating gang violence and expands the District’s ability to use DNA technology to solve crimes.

Highlights of the Omnibus Anti-Crime Amendment Act of 2008

Penalties for Guns

- Increases the penalty for felons in possession of a firearm to a mandatory minimum of two years, or a mandatory minimum of five years if the defendant has previously been convicted of a violent crime. This provision is modeled on legislation adopted by Virginia as part of its successful Project Exile program, which is widely credited with reducing crime in that state.
- Amends pre-trial release law so that probable cause for the arrest of certain dangerous and violent offenses will support a finding of dangerousness for pre-trial detention. Adds felon-in-possession of a firearm and possession of a firearm during a crime of violence to list of offenses where there is a rebuttable presumption of dangerousness.

- Criminalizes the illegal discharge of a weapon and attaches a five year penalty. Currently, illegal discharge of a weapon carries only a \$300 fine under District municipal regulations.

Violent Crime and Gangs

- Creates the new charge of use of a stolen vehicle to commit a crime of violence with a minimum penalty of five years.
- Amends the statutory definition of a gang to at least three members, instead of six, and includes certain conditions of membership, including the violation of any criminal law and the exclusion of any person from a specific geographic area by force or threats.
- Authorizes the issuance of civil injunctions against gangs declaring their public behavior a nuisance and requiring specific prohibitions.
- Increases the penalty for criminal conspiracies to commit violent crimes from five years for all conspiracies to the maximum punishment prescribed for the offense which was the subject of the conspiracy.

Witness Retaliation

- Prohibits disclosure of the names and addresses of victims of certain crimes on police reports, including domestic violence, violent crimes, stalking and threats.
- It also adds retaliatory “threats to injure” to conduct outlawed by the District’s obstruction of justice statute. Both of these measures will protect victims and witnesses from intimidation for reporting crimes to the police and cooperating with investigations and prosecutions.

DNA

- Expands the qualifying offenses for collecting a convicted defendant’s DNA under the DNA Analysis Backlog Elimination Act of 2000 to include all felonies. DNA collection in the District is currently limited to only specific felonies, which leaves the District out of step with its neighboring jurisdictions in the use of this important technology.

Drugs

- Makes fresh khat a Schedule I drug, as it is currently under federal law. Under District law, dried khat is a Schedule IV drug; however, the more potent version, fresh khat, is not on any controlled substance schedule.

Procedural

- Modernizes the District’s warrant law to define “daylight” for the purpose of serving warrants as “6 a.m. to 11 p.m.” Under the current, outdated law, special authorization is required to execute warrants after sundown.
- Expands arrests without warrant offenses (offenses where an officer can arrest based on probable cause when officer has not actually witnessed crime) to include destruction of property and voyeurism.
- Makes unlawful entry a non-jury demandable offense.

- Requires hospital health care providers to take blood from suspected drunk drivers and gives providers immunity for doing so.
- Amends detention hearing statute to allow postponement on New Years Day, Christmas Day and Thanksgiving.
- Expands mandatory HIV testing only for criminal defendants to require testing at any time after a preliminary hearing. Under current law, defendants are required to undergo HIV testing after conviction, which leaves months of uncertainty for victims.

Privileges

- Amends marital privilege law to prohibit claim of privilege by a spouse accused of domestic violence or other criminal offense prior to the marriage.
- Expands exceptions to physician-patient privilege so evidence can be used in additional proceedings including grand jury, delinquency, domestic violence, civil fraud and specific violent crimes prosecutions.

Statutory Revisions

- Revises the District's sexual assault statute so that a defendant is not required to prove consent by a preponderance of the evidence.
- Revises identity theft and theft statutes to include broader scope of conduct consistent with modern criminal practices in these areas.
- Revises stalking law to clarify current law and to make it consistent with model legislation written by the National Center for Victims of Crime.
- Adds penalty for false reports of abuse to Child and Family Services Agency.

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