

APPENDIX A:

RCC DRAFT STATUTES COMPARISON TO PRIOR DRAFT STATUTES (2-19-20)

SUBTITLE I. GENERAL PART.

Chapter 1. Preliminary Provisions.

RCC § 22E-101. Short Title and Effective Date.

- (a) *Short title.* This title may be cited as the “Revised Criminal Code.”;
- (b) *Effective date.* This title takes effect at 12:01 am on [A DATE AT LEAST 1 YEAR FROM ENACTMENT].
- (c) *Prior offenses.* Offenses committed prior to the effective date of the Revised Criminal Code are subject to laws in effect at that time. For purposes of this subsection, an offense is “committed prior to the effective date” if any 1 of the elements of the offense ~~is was~~ satisfied prior to the effective date.

RCC § 22E-102. Rules of Interpretation.

- (a) *Generally.* To interpret a statutory provision of this title, the plain meaning of that provision shall be examined first. If necessary ~~to determine legislative intent to determine legislative intent~~, the structure, purpose, and history of the provision also may be examined.
- (b) *Rule of ~~L~~enity.* If ~~two or more reasonable interpretations~~ the meaning of a statutory provision remain ~~in doubt~~ after examination of that provision’s plain meaning, structure, purpose, and history, then the interpretation that is most favorable to the defendant applies.
- (c) *Effect of ~~h~~Headings and ~~c~~Captions.* Headings and captions that appear at the beginning of ~~subtitles~~, chapters, subchapters, sections, and subsections of this title, may aid the interpretation of ~~otherwise ambiguous~~ statutory language.

RCC § 22E-103. Interaction of Title 22E with Other District Laws.

- ~~(a)~~ *General ~~i~~Interaction of Title 22E with ~~p~~Provisions in ~~o~~Other ~~L~~aws.* Unless otherwise ~~expressly provided~~ specified by ~~law~~ statute, a provision in this title applies to this title ~~alone~~ only.
- (a)
- ~~(b)~~ ~~(a)~~ *Interaction of Title 22E with ~~c~~Civil ~~p~~Provisions in ~~o~~Other ~~L~~aws.* Unless expressly specified by this title or otherwise provided by law, ~~t~~The provisions of this title do not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil action.

RCC § 22E-104. Applicability of the General Part.

Unless otherwise ~~expressly provided~~ specified by ~~law~~ statute, the provisions in ~~s~~Subtitle I of ~~RCC Title 22E~~ this title apply to all other provisions of ~~RCC Title 22E~~ this title.

Chapter 2. Basic Requirements of Offense Liability.

RCC § 22E-201. Proof of Offense Elements Beyond a Reasonable Doubt.

- (a) *Proof of ~~o~~Offense ~~e~~Elements ~~b~~Beyond a ~~r~~Reasonable ~~d~~Doubt.* No person may be convicted of an offense unless the government proves each offense element beyond a reasonable doubt.

~~Unless otherwise expressly specified by statute, if any evidence that an exclusion from liability applies appears at trial, the government must prove the absence of all elements of the exclusion from liability beyond a reasonable doubt.~~

~~Unless otherwise expressly specified by statute, if any evidence that a defense applies appears at trial, the government must prove the absence of all elements of the defense beyond a reasonable doubt.~~

- ~~(a) — Unless otherwise expressly specified by statute a defendant has the burden of proving an affirmative defense by a preponderance of the evidence.~~

- (b) *Burden of proof for exclusions from liability, defenses, and affirmative defenses.*

(1) If there is any evidence of a statutory exclusion from liability at trial, the government must prove the absence of all elements of the exclusion from liability beyond a reasonable doubt.

(2) If there is any evidence of a statutory defense at trial, the government must prove the absence of all elements of the defense beyond a reasonable doubt.

(3) A defendant has the burden of proving an affirmative defense by a preponderance of the evidence.

- ~~(b)~~ (c) *“Offense element” defined.* “Offense element” includes the objective elements and culpability requirement necessary to establish liability for an offense.

- ~~(c)~~ (d) *“Objective element” defined.* “Objective element” means any conduct element, result element, or circumstance element. For purposes of this ~~t~~Title:

(1) “Conduct element” means any act or omission that is required to establish liability for an offense;

(2) “Result element” means any consequence caused by a person’s act or omission that is required to establish liability for an offense; and

(3) “Circumstance element” means any characteristic or condition relating to either a conduct element or result element that is required to establish liability for an offense.

- ~~(d)~~ (e) *“Culpability requirement” defined.* “Culpability requirement” includes:

(1) The voluntariness requirement, as provided in RCC § 22E-203(a);

(2) The culpable mental state requirement, as provided in RCC § 22E-205(a); and

(3) Any other aspect of culpability specifically required ~~by~~ for an offense.

- ~~(e)~~ (f) *Other Definitions.*

(1) “Act” has the meaning specified in RCC § 22E-202**4**(b).

(2) “Omission” has the meaning specified in RCC § 22E-202**4**(c).

RCC § 22E-202. Conduct Requirement.

- (a) *Conduct ~~r~~Requirement.* No person may be convicted of an offense unless the person's liability is based on an act or omission.
- (b) *"Act" defined.* "Act" means a bodily movement.
- (c) *"Omission" defined.* "Omission" means a failure to act when:
 - (1) A person is under a legal duty to act; and
 - (2) The person is either:
 - (A) ~~A~~ aware that the legal duty to act exists; or, ~~if the person lacks such awareness, the person is~~
 - ~~(A)~~ (B) Culpably unaware that the legal duty to act exists.
- (d) *Existence of Legal Duty.* For purposes of this title, a legal duty to act exists when:
 - (1) The failure to act is expressly made sufficient by the law defining the offense; or
 - (2) A duty to perform the omitted act is otherwise imposed by law.

RCC § 22E-203. Voluntariness Requirement.

- (a) *Voluntariness requirement.* No person may be convicted of an offense unless the person voluntarily commits the conduct element ~~necessary to establish liability required~~ for ~~the that~~ offense.
- (b) *Scope of voluntariness requirement.*
 - (1) *Voluntariness of act.* When a person's act provides the basis for liability, a person voluntarily commits the conduct element of an offense when the act is:
 - (A) The product of conscious effort or determination; or
 - (B) Otherwise subject to the person's control.
 - (2) *Voluntariness of omission.* When a person's omission provides the basis for liability, a person voluntarily commits the conduct element of an offense when:
 - (A) The person has the physical capacity to perform the required legal duty; or
 - (B) The failure to act is otherwise subject to the person's control.
- (c) *~~Other~~ Definitions.*
 - (1) "Conduct element" has the meaning specified in RCC § 22E-201(~~de~~)(1).
 - (2) "Act" has the meaning specified in RCC § 22E-202**4**(b).
 - (3) "Omission" has the meaning specified in RCC § 22E-202**4**(c).

RCC § 22E-204. Causation Requirement.

- (a) *Causation requirement.* No person may be convicted of an offense that contains a result element unless the person's conduct is the factual cause and legal cause of the result.
- (b) *"Factual cause" defined.* A person's conduct is the factual cause of a result if:
 - (1) The result would not have occurred but for the person's conduct; or
 - (2) ~~In a situation where~~ **When** the conduct of ~~two~~**2** or more persons contributes to a result, the conduct of each alone would have been sufficient to produce that result.

- (c) *“Legal cause” defined.* A person’s conduct is the legal cause of a result if:
 - (1) ~~The result is reasonably un~~foreseeable in its manner of occurrence; and
 - (2) ~~The result is not too dependent upon another’s volitional conduct to hold the person responsible for it. ,to have a just bearing on the person’s liability.~~
- (d) ~~Other~~ *Definitions.*
 - (1) “Result element” has the meaning specified in RCC § 22E-201(~~de~~)(2).

RCC § 22E-205. Culpable Mental State Requirement.

- (a) *Culpable mental state requirement.* No person may be convicted of an offense unless the person acts with a culpable mental state as to every result element and circumstance element required ~~by for~~ that offense, ~~with the exception of any result element or circumstance– other than an~~ element for which that person is strictly liable under RCC § 22E-207(b).
- (b) *Culpable mental state defined.* “Culpable mental state” means:
 - (1) Purpose, knowledge, intent, recklessness, negligence, or a comparable mental state specified in this title; and
 - (2) The object of the phrases “with intent” and “with the purpose”.
- (c) *“Strictly Liability” defined.* “Strictly liable” and “strict liability” means liability as to a result element or circumstance element in the absence of a culpable mental state.
- (d) ~~Other~~ *Definitions.*
 - (1) “Result element” has the meaning specified in RCC § 22E-201(~~de~~)(2).
 - (2) “Circumstance element” has the meaning specified in RCC § 22E-201(~~de~~)(3).
 - (3) “Purpose” has the meaning specified in RCC § 22E-206(a).
 - (4) “Knowledge” has the meaning specified in RCC § 22E-206(b).
 - (5) “Intent” has the meaning specified in RCC § 22E-206(c).
 - (6) “Recklessness” has the meaning specified in RCC § 22E-206(d).
 - (7) “Negligence” has the meaning specified in RCC § 22E-206(e).

RCC § 22E-206. Definitions and Hierarchy of Culpable Mental States.

- (a) *“Purposely” defined.* A person acts purposely:
 - (1) As to a result element, when that person consciously desires to cause the result; and
 - (2) As to a circumstance element, when that person consciously desires that the circumstance exists.
- (b) *“Knowingly” defined.* A person acts knowingly:
 - (1) As to a result element, when that person is aware that ~~the~~ conduct is practically certain to cause the result; and
 - (2) As to a circumstance element, when that person is practically certain that the circumstance exists.
- (c) *“Intentionally” defined.* A person acts intentionally:
 - (1) As to a result element, when that person believes that ~~the~~ conduct is practically certain to cause the result; and

- (2) As to a circumstance element, when that person believes it is practically certain that the circumstance exists.
- (d) *“Recklessly” defined.* A person acts recklessly:
 - (1) As to a result element, when:
 - (A) That person consciously disregards a substantial risk that **the** conduct will cause the result; and
 - (B) The risk is of such a nature and degree that, considering the nature and purpose of the person’s conduct and the circumstances known to the person, the person’s conscious disregard of that risk is clearly blameworthy; and
 - (2) As to a circumstance element, when:
 - (A) That person consciously disregards a substantial risk that the circumstance exists; and
 - (B) The risk is of such a nature and degree that, considering the nature and purpose of the person’s conduct and the circumstances known to the person, the person’s conscious disregard of that risk is clearly blameworthy.
- (e) *“Negligently” defined.* A person acts negligently:
 - (1) As to a result element, when:
 - (A) That person should be aware of a substantial risk that **the** conduct will cause the result; and
 - (B) The risk is of such a nature and degree that, considering the nature and purpose of the person’s conduct and the circumstances known to the person, the person’s failure to perceive that risk is clearly blameworthy; and
 - (2) As to a circumstance element, when:
 - (A) That person should be aware of a substantial risk that the circumstance exists; and
 - (B) The risk is of such a nature and degree that, considering the nature and purpose of the person’s conduct and the circumstances known to the person, the person’s failure to perceive that risk is clearly blameworthy.
- (f) *Hierarchical relationship of culpable mental states.*
 - (1) **Proof of Negligence Proof of Negligence.** When the law requires negligence as to a result element or circumstance element, the requirement is also satisfied by proof of recklessness, intent, knowledge, or purpose.
 - (2) **Proof of Recklessness Proof of Recklessness.** When the law requires recklessness as to a result element or circumstance element, the requirement is also satisfied by proof of intent, knowledge, or purpose.
 - (3) **Proof of Knowledge or Intent Proof of Knowledge or Intent.** When the law requires knowledge or intent as to a result element or circumstance element, the requirement is also satisfied by proof of purpose.
- (g) *Same definitions for other parts of speech.* The words defined in this section have the same meaning when **used in** other parts of speech.
- (h) *Other Definitions.*
 - (1) “Result element” has the meaning specified in RCC § 22E-201(**de**)(2).

- (2) “Circumstance element” has the meaning specified in RCC § 22E-201(~~de~~)(3).

RCC § 22E-207. Rules of Interpretation Applicable to Culpable Mental States.

- (a) *Distribution of specified culpable mental states.* Any culpable mental state ~~or strict liability~~ specified in an offense applies to all subsequent result elements and circumstance elements until another culpable mental state ~~or strict liability~~ is specified, ~~with the exception of any result element or circumstance element for which the person is strictly liable under RCC § 22E-207(b).~~
- (b) *Identification of elements subject to strict liability.* A person is strictly liable for any result element or circumstance element in an offense:
- (1) That is modified by the phrase “in fact;” or
 - (2) When another statutory provision explicitly indicates strict liability applies to that result element or circumstance element.
- (c) ~~Determination of When Recklessness~~ *Is otherwise implied.* A culpable mental state of “recklessly” applies to any result element or circumstance element not otherwise subject to a culpable mental state under RCC § 22E-207(a), or subject to strict liability under RCC § 22E-207(b).
- (d) *Definitions.*
- (1) “Culpable mental state” has the meaning specified in RCC § 22E-205(b).
 - (2) “Result elements” has the meaning specified in RCC § 22E-201(~~de~~)(2).
 - (3) “Circumstance elements” has the meaning specified in RCC § 22E-201(~~de~~)(3).
 - (4) ~~“Strict liability” and “s~~Strictly liable” ~~haves~~ the meanings specified in RCC § 22E-205(c).
 - (5) “Recklessly” has the meaning ~~given~~ specified in RCC § 22E-206(d).

RCC § 22E-208. Principles of Liability Governing Accident, Mistake, and Ignorance.

- (a) *Effect of accident, mistake, and ignorance on liability.* A person is not liable for an offense when that person’s accident, mistake, or ignorance as to a matter of fact or law negates the existence of a culpable mental state applicable to a result element or circumstance element required ~~by~~ for that offense.
- (b) ~~Correspondence Relationship between mistake and culpable mental state requirements. For purposes of determining when a particular~~ A mistake as to a matter of fact or law negates the existence of a culpable mental state applicable to a circumstance element ~~as follows:~~
- (1) ~~Purpose-Purpose.~~ Any mistake as to a circumstance element negates the existence of the purpose applicable to that element.
 - (2) ~~Knowledge or Intent~~ *Knowledge or intent.* Any mistake as to a circumstance element negates the existence of the knowledge or intent applicable to that element.
 - (3) ~~Recklessness~~ *Recklessness.* A reasonable mistake as to a circumstance element negates the recklessness applicable to that element. An

- unreasonable mistake as to a circumstance element negates the existence of the recklessness applicable to that element **only** if the person did not **recklessly** make that mistake **recklessly**.
- (4) **Negligence Negligence.** A reasonable mistake as to a circumstance element negates the existence of the negligence applicable to that element. An unreasonable mistake as to a circumstance element negates the existence of the negligence applicable to that element **only** if the person did not **negligently** make that mistake **negligently**.
- (c) *Mistake or ignorance as to criminality.* A person may be held liable for an offense **although** when he or she is mistaken or ignorant as to the illegality of his or her conduct unless **the person's mistake or ignorance:**
- (1) **Negates a culpable mental state that is expressly required by statute as to:**
- ~~(A) The offense or some other provision in the Code expressly requires proof of a culpable mental state as to:~~
- (i) (A) Whether conduct constitutes that offense; or
- (ii) (B) The existence, meaning, or application of the law defining an offense; **and** or
- ~~(B) The person's mistake or ignorance negates that culpable mental state; or~~
- (2) ~~The person's mistake or ignorance~~ **s**Satisfies the requirements ~~for~~ of a general **excuse** defense under RCC § 22E-40[X].
- (d) *Imputation of knowledge for deliberate ignorance.* ~~When a culpable mental state of knowledge applies to a circumstance element, the required culpable mental state is established if~~ Knowledge of a circumstance is established if the person:
- (1) ~~The person is~~ **is** reckless as to whether the circumstance exists; and
- (2) ~~With the purpose of avoiding criminal liability, The person~~ avoids confirming or fails to investigate whether the circumstance exists **with the purpose of avoiding criminal liability.**
- (e) *Definitions.*
- (1) "Culpable mental state" has the meaning specified in RCC § 22E-205(b).
- (2) "Result element" has the meaning specified in RCC § 22E-201(**de**)(2).
- (3) "Circumstance element" has the meaning specified in RCC § 22E-201(**de**)(3).
- (4) "Purpose" has the meaning specified in RCC § 22E-206(a).
- (5) "Knowledge" has the meaning specified in RCC § 22E-206(b).
- (6) "Intent" has the meaning specified in RCC § 22E-206(c).
- (7) "Recklessness" has the meaning specified in RCC § 22E-206(d).
- (8) "Negligence" has the meaning specified in RCC § 22E-206(e).

RCC § 22E-209. Principles of Liability Governing Intoxication.

- (a) *Relevance of intoxication to liability.* A person is not liable for an offense when that person's intoxication negates the existence of a culpable mental state applicable to a result element or circumstance element required **by** ~~for~~ that offense.

- (b) ~~Correspondence~~ *Relationship between intoxication and culpable mental state requirements.* ~~For purposes of determining when i~~Intoxication negates the existence of a culpable mental state applicable to a result element or circumstance element ~~as follows:~~
- (1) ~~Purpose-Purpose.~~ Intoxication negates the existence of purpose when, due to ~~the-a~~ person's intoxicated state, that person does not consciously desire to cause the result or that the circumstance exist.
 - (2) ~~Knowledge or Intent~~ *Knowledge or Intent.* Intoxication negates the existence of knowledge or intent when, due to ~~the-a~~ person's intoxicated state, that person is not practically certain the result will occur or that the circumstance exists.
 - (3) ~~Recklessness~~ *Recklessness.* Except as provided in subsection (c) ~~of this section,~~ intoxication negates the existence of recklessness when, due to ~~the a~~ person's intoxicated state:
 - (A) That person is unaware of a substantial risk the result will occur or that the circumstance exists; or
 - (B) That person's disregard of the risk is not clearly blameworthy under RCC §§ 22E-206(d)(1)(B) or ~~RCC § 22E-206(d)(2)(B).~~
 - (4) ~~Negligence~~ *Negligence.* Intoxication negates the existence of negligence when, due to ~~the-a~~ person's intoxicated state, that person's failure to perceive a substantial risk the result will occur or that the circumstance exists is not clearly blameworthy under RCC §§ ~~22E-206(e)(1)(B) or § 22E-206(e)(2)(B).~~
- (c) *Imputation of recklessness for self-induced intoxication.* ~~When a culpable mental state of recklessness applies to a result element or circumstance element, the required culpable mental state is established if~~ Recklessness toward a result or circumstance ~~may be imputed~~ is established if:
- (1) ~~DA person,~~ due to his or her intoxicated state, ~~the person~~ is unaware of a substantial risk as to the result or circumstance that the person would have been aware of had ~~he or she~~ ~~the person~~ been sober;
 - (2) The person's intoxicated state is self-induced; and
 - (3) The person acts ~~at least~~ negligently as to that result or circumstance.
- (d) *Definitions of "Intoxication and self-induced intoxication" defined.*
- (1) "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.
 - (2) "Self-induced intoxication" means intoxication caused by ~~a~~ substances:
 - (A) A person knowingly introduces into ~~his or her~~ ~~the person's own~~ body;
 - (B) The tendency of which to cause intoxication the person is aware of or should be aware of; and
 - (C) That has~~ve~~ not been introduced ~~pursuant to~~ ~~under~~ medical advice ~~from of~~ ~~a licensed health professional~~ or under circumstances that would afford a general defense ~~to a charge of crime.~~ Under RCC § 22E-40[X].
- (e) ~~Other~~ *Definitions.*
- (1) "Culpable mental state" has the meaning specified in RCC § 22E-205(b).

- (2) “Result element” has the meaning specified in RCC § 22E-201(~~de~~)(2).
- (3) “Circumstance element” has the meaning specified in RCC § 22E-201(~~de~~)(3).
- (4) “Purpose” has the meaning specified in RCC § 22E-206(a).
- (5) “Knowledge” has the meaning specified in RCC § 22E-206(b).
- (6) “Intent” has the meaning specified in RCC § 22E-206(c).
- (7) “Recklessness” has the meaning specified in RCC § 22E-206(d).
- (8) “Negligence” has the meaning specified in RCC § 22E-206(e).
- (9) “Health professional” has the meaning specified in RCC § 22E-701.

RCC § 22E-210. Accomplice Liability.

- (a) *Definition of accomplice liability.* A person is an accomplice in the commission of an offense by another when, acting with the culpability required ~~by~~ **for** that offense, the person:
 - (1) Purposely assists another person with the planning or commission of conduct constituting that offense; or
 - (2) ~~Purposely e~~Encourages another person to engage in specific conduct constituting that offense.
- (b) *Principle of Culpable Mental State Elevation Applicable to Circumstances of Target Offense.* Notwithstanding subsection (a) of this section, to be an accomplice in the commission of an offense, a person must intend for **all** ~~any~~ circumstance elements required by that offense to exist.
- (c) *Grading distinctions based on culpability as to result elements.* An accomplice in the commission of an offense that is graded by distinctions in culpability as to result elements is liable for any grade for which he or she ~~possesses~~ **has** the required culpability.
- (d) *Relationship between accomplice and principal.* An accomplice may be convicted of an offense upon proof of the commission of the offense and of his or her complicity therein, although the other person claimed to have committed the offense:
 - (1) Has not been prosecuted or convicted; ~~or~~
 - (2) Has been convicted of a different offense or degree of an offense; or
 - (3) Has been acquitted.
- (e) *Definitions.*
 - (1) “Culpability” has the meaning specified in RCC § 22E-201(~~ed~~).
 - (2) “Purposely” has the meaning specified in RCC § 22E-206(a).
 - (3) “Intend” has the meaning specified in RCC § 22E-206(c).
 - (4) “Circumstance elements” has the meaning specified in RCC § 22E-201(~~de~~)(3).
 - (5) “Result elements” has the meaning specified in RCC § 22E-201(~~de~~)(2).

RCC § 22E-211. Liability for Causing Crime by an Innocent or Irresponsible Person.

- (a) *Causing crime by an innocent or irresponsible person.* A person is legally accountable for the conduct of another when, acting with the culpability required ~~by for an~~ that offense, the person causes an innocent or irresponsible person to engage in conduct constituting an offense.
- (b) *“Innocent or irresponsible person” defined.* ~~An “Innocent or irresponsible person” within the meaning of means subsection (a) includes~~ of this section includes a person who, having engaged in conduct constituting an offense:
 - (1) Lacks the culpable mental state requirement for that offense; or
 - (2) Acts under conditions that establish an excuse defense, such as insanity, immaturity, duress, or a reasonable mistake as to a justification.
- (c) *Liability based on legal accountability.* A person is guilty of an offense if it is committed by the conduct of another person for which he or she is legally accountable ~~legally accountable~~ under subsection (a) ~~of this section~~.
- (d) ~~Other~~ *Definitions.*
 - (1) “Culpability” has the meaning specified in RCC § 22E-201(d).
 - ~~(2) “Causes” has the meaning specified in RCC § 22E-204(a).~~
 - ~~(3)~~ (2) “Culpable mental state” has the meaning specified in RCC § 22E-205(b).

RCC § 22E-212. ~~Exceptions to Legal Accountability. Exclusions from Liability for Conduct of Another Person.~~

~~(a) Unless otherwise expressly specified by statute, *Exceptions to General Principles of Legal Accountability.* A~~ a person is not ~~legally accountable~~ liable for the conduct of another under RCC § 22E-210 or RCC § 22E-211 when ~~t~~:

- ~~(1) The person is a victim of the offense; or~~
- ~~(2) The person’s conduct is inevitably incident to commission of the offense as defined by statute.~~

~~(b) *Exceptions Inapplicable Where Liability Expressly Provided by Offense.* The exceptions established in subsection (a) of this section do not limit the criminal liability expressly provided for by an individual offense.~~

RCC § 22E-213. Withdrawal Defense to Legal Accountability.

- (a) ~~Withdrawal d~~*Defense.* It is an affirmative defense to a prosecution under RCC § 22E-210 and RCC § 22E-211 that the defendant, ~~in fact~~, terminates his or her efforts to promote or facilitate commission of an offense before it ~~has been~~ is committed, and ~~either~~:
 - (1) Wholly deprives his or her prior efforts of their effectiveness;
 - (2) Gives timely warning to the appropriate law enforcement authorities; or
 - (3) ~~Otherwise m~~Makes reasonable efforts to prevent the commission of the offense.

~~(b) *Burden of Proof.* The defendant has the burden of proof for this affirmative defense and must prove this affirmative defense by a preponderance of the evidence.~~

RCC § 22E-214. Merger of Related Offenses.

- (a) *Merger of multiple related offenses.* Multiple convictions for ~~two~~ 2 or more offenses arising from the same course of conduct merge when ~~ever~~:
- (1) One offense is ~~necessarily~~ established by proof of the ~~same or less than all the facts required to establish the commission~~ elements of the other offense as a matter of law;
 - (2) The offenses differ only in that:
 - (A) One prohibits a less serious harm or wrong to the same person, property, or public interest;
 - (B) One may be satisfied by a ~~lesser kind of culpability—lower culpable mental state under RCC § 22E-206~~; or
 - (C) One is defined to prohibit a designated kind of conduct generally, and the other is defined to prohibit a specific instance of such conduct;
 - (3) One offense requires a finding of fact inconsistent with the requirements for commission of the other offense, as a matter of law;
 - (4) One offense reasonably accounts for the other offense given the harm or wrong, culpability, and penalty proscribed by each;
 - (5) One offense consists only of an attempt or solicitation ~~toward commission~~ of:
 - (A) The other offense; or
 - (B) An ~~different~~ offense that is related to ~~the other that~~ offense in the manner described in paragraphs (a)(1)–(4) of this section; or
 - (6) Each offense is a general inchoate offense designed to culminate in the commission of:
 - (A) The same offense; or
 - (B) Different offenses that are related to one another in the manner described in paragraphs (a)(1)–(4) of this section.
- (b) *General merger rules inapplicable where legislative intent is clear.* ~~The merger rules set forth in subsection (a) of~~ This section ~~are~~ is inapplicable whenever the legislature clearly expresses an intent to authorize multiple convictions for different offenses arising from the same course of conduct.
- ~~(c) Alternative elements. The court shall, in applying subsections (a) and (b) to an offense comprised of alternative elements that protect distinct societal interests, limit its analysis to the elements upon which a defendant's conviction is based.~~
- (c) *Rule of priority.* When ~~two~~ 2 or more convictions for different offenses arising from the same course of conduct merge, the ~~offense conviction~~ that remains shall be ~~the conviction for~~:
- (1) The offense with the highest statutory maximum among the offenses in question; or
 - (2) If the offenses have the same statutory maximum, any offense that the court deems appropriate.
- (d) *Final judgment of liability.* A person may be found guilty of ~~two~~ 2 or more offenses that merge under this section; however, no person may be subject to a conviction for more than one of those offenses after:
- (1) The time for appeal has expired; or

- (2) The ~~judgment appeals from becomes final~~ judgment appealed from has been decided.

RCC § 22E-215. De Minimis Defense.

- (a) *De minimis defense defined.* It is an affirmative defense to any misdemeanor or a Class 6, 7, ~~or 8, or 9~~ felony that the person's conduct and accompanying state of mind are insufficiently blameworthy to warrant the condemnation of a criminal conviction under the circumstances.
- (b) *Relevant factors.* In determining whether subsection (a) ~~of this section~~ is ~~satisfied proven~~, the factfinder shall consider, among other appropriate factors:
- (1) The triviality of the harm caused or threatened by the person's conduct;
 - (2) The extent to which the person was unaware that his or her conduct would cause or threaten that harm;
 - (3) The extent to which the person's conduct furthered or was intended to further legitimate societal objectives; and
 - (4) The extent to which any individual or situational factors for which the person is not responsible hindered the person's ability to conform his or her conduct to the requirements of law. ~~*Burden of Proof.* The defendant has the burden of proof and must prove all requirements of the affirmative defense by a preponderance of the evidence. *Bifurcated trial.* A defendant asserting a defense under this section may demand a bifurcated trial. If the defendant demands a bifurcated trial, the factfinder shall determine whether the government proved beyond a reasonable doubt that the defendant committed the charged offense. In the second phase of the trial, the factfinder shall determine whether the defendant proved by the preponderance of the evidence that the conduct and accompanying state of mind are insufficiently blameworthy.~~
- (c) ~~*Burden of Proof.* The defendant has the burden of proof and must prove all requirements of this affirmative defense by a preponderance of the evidence. *Limitation.* This affirmative defense is unavailable in a situation reasonably envisioned by the legislature in when forbidding the charged offense.~~
- (d) *Specific findings.* ~~The~~ A court shall state its specific findings of facts and law in open court or in a written decision or opinion regarding:
- (1) The availability of this affirmative defense in a jury trial or bench trial; and
 - (2) The applicability of this affirmative defense in a bench trial.

Chapter 3. Inchoate Liability.

RCC § 22E-301. Criminal Attempt.

- (a) *Definition of attempt.* A person is guilty of an attempt to commit an offense when that person ~~is~~:
- (1) ~~Plans~~ ~~to~~ engage in conduct constituting that offense;
 - (2) With the culpability required ~~by~~ for that offense; and
 - (3) ~~The person~~ ~~e~~Engages in conduct that ~~i~~:

~~(3) Is reasonably adopted to completion of that offense; and:~~

~~(A)~~

~~(B)(A)~~ Comes dangerously close to completing that offense; or

~~(C)(B)~~ Would have come dangerously close to completing that offense if the situation was as the person perceived it ~~to be;~~ ~~and~~

~~(D) Is reasonably adapted to completion of that offense.~~

(b) *Principle of culpable mental state elevation applicable to results of target offense.* Notwithstanding subsection (a) ~~of this section~~, to be guilty of an attempt to commit an offense, the defendant must intend to cause ~~all any~~ result elements required ~~by for~~ that offense.

(c) *Proof of completed offense sufficient basis for attempt conviction.* A person may be convicted of an attempt to commit an offense based upon proof that the person actually committed the target offense, provided that no person may be convicted of both the target offense and an attempt to commit the target offense arising from the same course of conduct.

(d) *Penalties ~~for Attempt~~.*

(1) An attempt to commit an offense is subject to one-half the maximum ~~punishment penalty~~ applicable to that offense, unless a different ~~punishment-penalty~~ is specified in paragraph (d)(2) ~~of this section~~.

(2) Notwithstanding paragraph (d)(1) ~~of this section~~, an attempts to commit the following offenses may be punished accordingly: [RESERVED: List of exceptions and accompanying penalties.]

(e) *~~Other~~ Definitions.*

(1) “Intent” has the meaning specified in RCC § 22E-206(c).

(2) “Result element” has the meaning specified in RCC § 22E-201(~~de~~)(2).

RCC § 22E-302. Criminal Solicitation.

(a) *Definition of solicitation.* A person is guilty of a solicitation to commit an offense when, acting with the culpability required ~~by for~~ that offense, ~~the that~~ person:

(1) Purposely commands, requests, or tries to persuade another person to engage in or aid the planning or commission of specific conduct, which, if carried out, will constitute that offense or an attempt to commit that offense; and

(2) The offense solicited is, in fact, ~~a crime of violence~~ ~~an offense against persons as defined in Subtitle II of Title 22E.~~

(b) *Principles of culpable mental state elevation applicable to results and circumstances of target offense.* Notwithstanding subsection (a) ~~of this section~~, to be guilty of a solicitation to commit an offense, ~~the defendant~~ ~~a person~~ must:

(1) Intend to cause ~~all any~~ result elements required ~~by for~~ that offense; and

(2) Intend for ~~all any~~ circumstance elements required ~~by for~~ that offense to exist.

(c) *Uncommunicated solicitation.* It is immaterial under subsection (a) ~~of this section~~ that the intended recipient of the defendant’s command, request, or efforts at persuasion fails to receive the message, ~~provided that~~ if the defendant does everything he or she plans to do to transmit the message to the intended recipient.

(d) *Penalties ~~for Solicitation~~.*

- (1) A solicitation to commit an offense is subject to one-half the maximum ~~punishment~~ penalty applicable to that offense, unless a different ~~punishment~~ penalty is specified in paragraph (d)(2) of this section.
- (2) Notwithstanding paragraph (d)(1) of this section, a solicitation to commit the following offenses may be punished accordingly: [RESERVED: List of exceptions and accompanying penalties.]

(e) *Definitions.*

- (1) “Purposely” has the meaning specified in RCC § 22E-206(a).
- (2) “Intend” has the meaning specified in RCC § 22E-206(c).

RCC § 22E-303. Criminal Conspiracy.

(a) *Definition of conspiracy.* A person is guilty of a conspiracy to commit an offense when, acting with the culpability required ~~for~~ ~~by~~ that offense, that person and at least one other person:

- (1) Purposely agree to engage in or aid the planning or commission of conduct which, if carried out, will constitute that offense or an attempt to commit that offense; and
- (2) One of the parties to the agreement engages in an overt act in furtherance of the agreement.

(b) *Principles of culpable mental state elevation applicable to results and circumstances of target offense.* Notwithstanding subsection (a) of this section, to be guilty of a conspiracy to commit an offense, the defendant and at least one other person must:

- (1) Intend to cause ~~all~~ ~~any~~ result elements required ~~by~~ ~~for~~ that offense; and
- (2) Intend for ~~all~~ ~~any~~ circumstance elements required ~~by~~ ~~for~~ that offense to exist.

(c) *Penalties ~~for Conspiracy~~.*

- (1) A conspiracy to commit an offense is subject to one-half the maximum punishment applicable to that offense, unless a different punishment is specified in paragraph (c)(2) of this section.
- (2) Notwithstanding paragraph (c)(1) of this section, a ~~conspiracy~~ ~~ies~~ to commit the following offenses may be punished accordingly: [RESERVED: List of exceptions and accompanying penalties.]

(d) *Jurisdiction when object of conspiracy is ~~to engage in conduct located~~ outside the District ~~of Columbia~~.* When the object of a conspiracy formed ~~within~~ ~~inside~~ the District ~~of Columbia~~ is to engage in conduct outside the District ~~of Columbia~~, the conspiracy is a violation of this section ~~only~~ if:

- (1) ~~That~~ ~~The~~ conduct would constitute a criminal offense under the statutory laws of the District ~~of Columbia~~ if performed in the District ~~of Columbia~~; and
- (2) ~~That~~ ~~The~~ conduct would ~~also~~ constitute a criminal offense under:
 - (A) The statutory laws of the other jurisdiction if performed in that jurisdiction; or

- (B) The statutory laws of the District ~~of Columbia~~ even if performed outside the District ~~of Columbia~~.
- (e) *Jurisdiction when conspiracy is formed outside the District ~~of Columbia~~.* A conspiracy formed ~~in another jurisdiction outside the District~~ to engage in conduct ~~within inside~~ the District ~~of Columbia~~ is a violation of this section if:
- (1) ~~That~~ The conduct would constitute a criminal offense under the statutory laws of the District ~~of Columbia~~ if performed within the District ~~of Columbia~~; and
 - (2) An overt act in furtherance of the conspiracy is committed within the District ~~of Columbia~~.
- (f) *Legality of conduct in other jurisdiction no defense ~~irrelevant~~.* ~~Under circumstances where~~ When paragraphs (d)(1) and (d)(2) of this section ~~can be established~~ are proven, it is not a defense to a prosecution for conspiracy that the conduct ~~which~~ that is the object of the conspiracy would not constitute a criminal offense under the ~~statutory~~ laws of the jurisdiction in which the conspiracy was formed.
- (g) *Definitions.*
- (1) “Purposely” has the meaning specified in RCC § 22E-206(a).
 - (2) “Intend” has the meaning specified in RCC § 22E-206(c).

RCC § 22E-304. Exceptions to General Inchoate Liability.

- (a) *Exceptions to general inchoate liability.* A person is not guilty of solicitation ~~to commit an offense~~ under RCC § 22E-302 or conspiracy ~~to commit an offense~~ under RCC § 22E-303 when:
- (1) The person is a victim of the target offense; or
 - (2) The person’s criminal objective is inevitably incident to commission of the target offense as defined by statute.
- (b) *Exceptions inapplicable where liability expressly provided by offense.*
The exceptions established in subsection (a) ~~of this section~~ do not limit the criminal liability expressly ~~provided for~~ specified by an individual offense.

RCC § 22E-305. Renunciation Defense to General Inchoate Liability.

- (a) *Renunciation defense.* It is an affirmative defense to a prosecution for ~~criminal an~~ attempt, ~~criminal~~ solicitation, ~~and criminal~~ or conspiracy that:
- (1) The defendant ~~engaged in~~ made reasonable efforts to prevent commission of the target offense;
 - (2) Under circumstances manifesting a voluntary and complete renunciation of the defendant’s criminal intent; and
 - (3) The target offense was not committed.
- (b) *Scope of voluntary and complete ~~renunciation~~.* A renunciation is not “voluntary and complete” ~~within the meaning of~~ under subsection (a) ~~of this section~~ when it is motivated in whole or in part by:
- (1) A belief that circumstances exist which:
 - (A) Increase the probability of detection or apprehension of the

- defendant or another participant in the criminal enterprise; or
- (B) Render accomplishment of the criminal plans more difficult; or
- (2) A decision to:
 - (A) Postpone the criminal conduct until another time; or
 - (B) Transfer the criminal effort to another victim or similar objective.
- (c) ~~*Burden of Proof. The defendant has the burden of proof for this affirmative defense and must prove this affirmative defense by a preponderance of the evidence. Definitions.*~~
 - (1) “Intent” has the meaning specified in RCC § 22E-206(c)

Chapter 4. Justification Defenses.

RCC § 22E-40~~X~~8. Special Responsibility for Care, Discipline, or Safety Defense.

- (a) Except as provided in subsection (b) of this section, the following are defenses to the offenses in Subtitle II.
 - (1) *Parental Defense.*
 - (A) The complainant is under 18 years of age;
 - (B) The actor is either:
 - (i) A parent, or a person acting in the place of a parent per civil law, who is responsible for the health, welfare, or supervision of the complainant; or
 - (ii) Someone acting with the effective consent of such a parent or person;
 - (C) The actor engages in the conduct constituting the offense with the intent of safeguarding or promoting the welfare of the complainant, including the prevention or punishment of his or her misconduct; and
 - (D) Such conduct is reasonable in manner and degree, under all the circumstances; and
 - (E) Such conduct either:
 - (i) Does not create a substantial risk of, or cause, death or serious bodily injury; or
 - (ii) Is the performance or authorization of a medical procedure, otherwise permitted under District and federal civil law, by a licensed health professional or by a person acting at the direction of a licensed health professional.
 - (2) *Guardian Defense.*
 - (A) The complainant is an incapacitated individual;
 - (B) The actor is either:
 - (i) A court-appointed guardian to the complainant; or
 - (ii) Someone acting with the effective consent of such a guardian;
 - (C) The actor engages in the conduct constituting the offense with the intent of safeguarding or promoting the welfare of the

complainant, including the prevention of his or her misconduct;
and

(D) Such conduct is reasonable in manner and degree under all the circumstances; and

(E) Such conduct is permitted under civil law controlling the actor's guardianship and either:

(i) Does not create a substantial risk of, or cause, death or serious bodily injury; or

(ii) Is the performance or authorization of a medical procedure, otherwise permitted under District and federal civil law, by a licensed health professional or by a person acting at the direction of a licensed health professional.

(3) *Emergency Health Professional Defense.*

(A) The complainant is presently unable to give effective consent;

(B) The actor is either:

(i) A licensed health professional; or

(ii) A person acting at a licensed health professional's direction;

(C) The conduct charged to constitute the offense is the performance or authorization of a medical procedure otherwise permitted under District and federal civil law;

(D) The actor engages in or authorizes the medical procedure with the intent of safeguarding or promoting the physical or mental health of the complainant;

(E) The medical procedure is administered or authorized in an emergency;

(F) No person that is permitted under District law to consent to the medical procedure on behalf of the complainant can be timely consulted;

(G) The actor was not aware of any legally valid standing instruction by the complainant declining the medical procedure; and

(H) A reasonable person wishing to safeguard the welfare of the complainant would consent to the medical procedure.

(4) *Limited Duty of Care Defense.*

(A) The actor has a responsibility, under District civil law, for the health, welfare, or supervision of the complainant;

(B) The actor engages in the conduct constituting the offense with intent that the conduct:

(i) Is necessary to fulfill the actor's responsibility to the complainant; and

(ii) Is consistent with the welfare of the complainant;

(C) Such conduct is reasonable in manner and degree, under all the circumstances;

(D) Such conduct does not create a substantial risk of, or cause, death or serious bodily injury; and

(E) No other defense in this section applies to the conduct.

- (b) *Exceptions.* The defenses in this section do not apply to the following:
 - (1) Offenses in Chapter 13 of this title (Sexual Assault and Related Provisions); and
 - (2) Offenses in Chapter 16 of this title (Human Trafficking).
- (c) *Burden of Proof.* The government must prove the absence of a defense in this section beyond a reasonable doubt if any evidence is present at trial of:
 - (1) Sub-paragraphs (a)(1)(A) - (a)(1)(C) of the parental defense in this section;
 - (2) Sub-paragraphs (a)(2)(A) - (a)(2)(C) of the guardian defense in this section;
 - (3) Sub-paragraphs (a)(3)(A) - (a)(3)(E) of the emergency health professional defense in this section; or
 - (4) Sub-paragraphs (a)(4)(A) - (a)(4)(B) of the limited duty of care defense.
- (d) *Definitions.* The term “intent,” has the meaning specified in RCC § 22E-206; and the terms “actor,” “complainant,” “consent,” “effective consent,” “health professional,” “person acting in the place of a parent per civil law,” “person with legal authority over the complainant,” and “serious bodily injury” have the meanings specified in RCC § 22E-701. The term “incapacitated individual” has the meaning specified in D.C. Code § 21-2011.

RCC § 22E-40~~X~~9. Effective Consent Defense.

- (a) *Defense.* Except as provided in subsection (b) of this section, it is a defense to an offense in Subtitle II of this title that:
 - (1) The complainant or a person with legal authority over the complainant gave effective consent to the actor, or the actor reasonably believed that the complainant or a person with legal authority over the complainant gave effective consent to the actor, for the conduct charged to constitute the offense or for the result thereof; and
 - (2) Either:
 - (A) The conduct charged to constitute the offense did not create a substantial risk of, or cause, death or a protracted loss or impairment of the function of a bodily member or organ; or
 - (B) The result was a reasonably foreseeable hazard of:
 - (i) The complainant’s occupation;
 - (ii) A medical procedure, otherwise permitted under District and federal civil law, by a licensed health professional or a person acting at the direction of a licensed health professional; or
 - (iii) Participation in a lawful contest or sport.
- (b) *Exceptions to the Defense.*
 - (1) The defense in this section does not apply when the actor is the person with legal authority over the complainant.
 - (2) The defense in this section does not apply to the following:
 - (A) Offenses in Chapter 13 of this title (Sexual Assault and Related Provisions);

- (B) Offenses in Chapter 14 of this title (Kidnapping, Criminal Restraint, and Blackmail); and
- (C) Offenses in Chapter 16 of this title (Human Trafficking).
- (c) *Burden of Proof.* If evidence for the requirements of this defense is present at trial, the government must prove the absence of all requirements of the defense beyond a reasonable doubt.
- (d) *Definitions.* The terms “actor,” “complainant,” “effective consent,” “health professional,” and “person with legal authority over the complainant” have the meanings specified in RCC § 22E-701.

[Chapter 6. Offense Classes, Penalties, & Enhancements.]

RCC § 22E-601. Offense Classifications.

- (a) *Offense Classifications.* Each offense in this title is classified as a:
 - (1) Class 1 felony;
 - (2) Class 2 felony;
 - (3) Class 3 felony;
 - (4) Class 4 felony;
 - (5) Class 5 felony;
 - (6) Class 6 felony;
 - (7) Class 7 felony;
 - (8) Class 8 felony;
 - (9) [Class 9 felony;]
 - (10) Class A misdemeanor;
 - (11) Class B misdemeanor;
 - (12) Class C misdemeanor;
 - (13) Class D misdemeanor; or
 - (14) Class E misdemeanor.
- (b) *Definitions.* For purposes of this title:
 - (1) “Felony” means an offense with an authorized term of imprisonment that is more than 1 year or, in other jurisdictions, death.
 - (2) “Misdemeanor” means an offense with an authorized term of imprisonment that is 1 year or less.

RCC § 22E-602. Authorized Dispositions.

- (a) *Authorized Dispositions.* Except as otherwise provided by statute, a court may sentence a defendant upon conviction to sanctions that include one or more of the following:
 - (1) Imprisonment as authorized in RCC § 22E-603;
 - (2) Fines as authorized in RCC § 22E-604;
 - (3) Probation as authorized in D.C. Code § 16-710;
 - (4) Restitution or reparation as authorized in D.C. Code § 16-711;
 - (5) Community service as authorized in D.C. Code § 16-712;
 - (6) Postrelease supervision as authorized in D.C. Code § 24-903; and

(7) Work release as authorized in D.C. Code § 24-241.01.

RCC § 22E-603. Authorized Terms of Imprisonment.

(a) *Authorized Terms of Imprisonment.* Except as otherwise provided by law, the maximum term of imprisonment authorized for an offense is:

- (1) For a Class 1 felony, [life without possibility of release] [80 years] [60 years];
- (2) For a Class 2 felony, not more than [45 years] [60 years] [50 years];
- (3) For a Class 3 felony, not more than [30 years] [40 years] [32 years];
- (4) For a Class 4 felony, not more than [20 years] [30 years] [24 years];
- (5) For a Class 5 felony, not more than [15 years] [20 years] [18 years];
- (6) For a Class 6 felony, not more than [10 years] [15 years] [12 years];
- (7) For a Class 7 felony, not more than [5 years] [10 years] [8 years];
- (8) For a Class 8 felony, not more than [3 years] [8 years] [4 years];
- (9) For a Class 9 felony, not more than [3 years] [2 years];
- (10) For a Class A misdemeanor, not more than [1 year] [1 year] [1 year];
- (11) For a Class B misdemeanor, not more than [180 days] [6 months];
- (12) For a Class C misdemeanor, not more than [90 days] [3 months] [1 month];
- (13) For a Class D misdemeanor, not more than [30 days] [1 month] [10 days]; and
- (14) For a Class E misdemeanor, no imprisonment.

(b) *Attempts.* A court shall decrease the authorized terms of imprisonment for an attempt to commit an offense pursuant to § 22E-301.

(c) *Penalty Enhancements.* A court may increase the authorized terms of imprisonment for an offense with a penalty enhancement pursuant to § 22E-605.

RCC § 22E-604. Authorized Fines.

(a) *Authorized Fines.* Except as otherwise provided by law, the maximum fine for an offense is:

- (1) For a Class 1 felony, not more than [\$500,000] [XX] [XX];
- (2) For a Class 2 felony, not more than [\$250,000] [XX] [XX];
- (3) For a Class 3 felony, not more than [\$75,000] [XX] [XX];
- (4) For a Class 4 felony, not more than [\$50,000] [XX] [XX];
- (5) For a Class 5 felony, not more than [\$37,500] [XX] [XX];
- (6) For a Class 6 felony, not more than [\$25,000] [XX] [XX];
- (7) For a Class 7 felony, not more than [\$12,500] [XX] [XX];
- (8) For a Class 8 felony, not more than [\$6,000] [XX] [XX];
- (9) [For a Class 9 felony, not more than [XX] [XX];]
- (10) For a Class A misdemeanor, not more than [\$2,500] [XX] [XX];
- (11) For a Class B misdemeanor, not more than [\$1,000] [XX] [XX];
- (12) For a Class C misdemeanor, not more than [\$500] [XX] [XX];
- (13) For a Class D misdemeanor, not more than [\$250] [XX] [XX]; and
- (14) For a Class E misdemeanor, not more than [\$250] [XX] [XX].

- (b) *Limits on Maximum Fine Penalties.* A court may not impose a fine that would impair the ability of the defendant to make restitution or deprive the defendant of sufficient means for reasonable living expenses and family obligations.
- (c) *Alternative Maximum Fine Based on Pecuniary Loss or Gain.* Subject to the limits on maximum fine penalties in subsection (b) of this section, if the offense of conviction results in pecuniary loss to a person other than the defendant, or if the offense of conviction results in pecuniary gain to any person, a court may fine the defendant:
- (1) Not more than twice the pecuniary loss,
 - (2) Not more than twice the pecuniary gain, or
 - (3) Not more than the economic sanction in subsection (a) of this section that the defendant is otherwise subject to, whichever is greater. The pecuniary loss or pecuniary gain must be alleged in the indictment and proved beyond a reasonable doubt.
- (d) *Alternative Maximum Fine for Organizational Defendants.* Subject to the limits on maximum fine penalties in subsection (b) of this section, if an organizational defendant is convicted of a Class A misdemeanor or any felony, a court may fine the organizational defendant not more than double the applicable amount under subsection (a) of this section.
- (e) *Attempts.* A court shall decrease the authorized fines for an attempt to commit an offense pursuant to RCC § 22E-301.
- (f) *Penalty Enhancements.* A court may decrease the authorized fines for an offense pursuant to RCC § 22E-605.
- (g) *Definitions.* In this section:
- (1) “Organizational Defendant” means any person other than an individual human being. The term includes corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and political subdivisions thereof, and non-profit organizations.
 - (2) “Pecuniary loss” means actual harm that is monetary or readily measurable in money.
 - (3) “Pecuniary gain” means before-tax profit, including additional revenue or cost savings.

RCC § 22E-605. Limitations on Penalty Enhancements.

- (a) *Penalty Enhancements Not Applicable To Offenses with Equivalent Elements.* Notwithstanding any other provision of law, an offense is not subject to a penalty enhancement in this Chapter when that offense contains an element in one of its gradations which is equivalent to the penalty enhancement.
- (b) *Charging of Penalty Enhancements.* A person is not subject to additional punishment for a penalty enhancement unless notice of the penalty enhancement is provided by an information or indictment.
- (c) *Standard of Proof for Penalty Enhancements.* Except for the establishment of prior convictions as provided in D.C. Code § 23-111, a person is not subject to

additional punishment for a penalty enhancement unless each objective element and culpable mental state of the penalty enhancement is proven beyond a reasonable doubt.

- (d) *Multiple Penalty Enhancements Permitted in Charging and Proof.* Multiple penalty enhancements may be applied to an offense for purposes of charging and proof at trial. However, an offense with multiple penalty enhancements is subject to RCC § 22E-70[X].

RCC § 22E-606. Repeat Offender Penalty Enhancements.

- (a) *Misdemeanor Repeat Offender Penalty Enhancement.* A misdemeanor repeat offender penalty enhancement applies to a misdemeanor when the defendant, in fact, has 2 or more prior convictions for District of Columbia offenses or offenses equivalent to current District of Columbia offenses.
- (b) *Felony Repeat Offender Penalty Enhancement.* A felony repeat offender penalty enhancement applies to a felony when the offender, in fact, has 2 or more prior convictions for District of Columbia felonies or offenses equivalent to current District of Columbia felonies.
- (c) *Crime of Violence Repeat Offender Penalty Enhancement.* A crime of violence repeat offender penalty enhancement applies to a crime of violence when the offender, in fact, has one or more prior convictions for a District of Columbia crime of violence or an offense equivalent to a current District of Columbia crime of violence.
- (d) *Additional Procedural Requirements.* No person shall be subject to additional punishment for a repeat offender penalty enhancement in this section unless the requirements of D.C. Code § 23-111 are satisfied.
- (e) *Penalties.*
- (1) *Misdemeanor Repeat Offender.* A misdemeanor repeat offender penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
 - (2) *Felony Repeat Offender.* A felony repeat offender penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
 - (3) *Crime of Violence Repeat Offender.* A crime of violence repeat offender penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
- (f) *Definitions.*
- (1) *Crime of Violence.* “Crime of violence” has the meaning specified in RCC § 22E-[XXX].
 - (2) *Equivalent.* For purposes of this section, “equivalent” means a criminal offense with elements that would necessarily prove the elements of a District criminal offense.
 - (3) *Felony.* “Felony” has the meaning specified in RCC § 22E-601.

- (4) *Misdemeanor*. “Misdemeanor” has the meaning specified in RCC § 22E-601.
- (5) *Prior Convictions*. In this section, “prior convictions” means convictions by any court or courts of the District of Columbia, a state, a federally-recognized Indian tribe, or the United States and its territories, provided that:
 - (i) Convictions for 2 or more offenses committed on the same occasion or during the same course of conduct shall be counted as only one conviction;
 - (ii) A conviction for an offense with a sentence that was completed more than 10 years prior to the commission of the instant offense shall not be counted for determining repeat misdemeanor offender and repeat felony offender penalty enhancements;
 - (iii) An offense that was committed when the defendant was a minor shall not be counted for determining misdemeanor repeat offender or felony repeat offender penalty enhancements; and
 - (iv) A conviction for which a person has been pardoned shall not be counted as a conviction.

RCC § 22E-607. Hate Crime Penalty Enhancement.

- (a) *Hate Crime Penalty Enhancement*. A hate crime penalty enhancement applies to an offense when the offender commits the offense with intent to injure or intimidate another person because of prejudice against that person’s perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical disability, matriculation, or political affiliation.
- (b) *Penalty*. A hate crime penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
- (c) *Definitions*.
 - (1) *Definition of Gender Identity or Expression*. For purposes of this section, “Gender identity or expression” shall have the same meaning as provided in D.C. Code § 2-1401.02(12A).
 - (2) *Definition of Homelessness*. For purposes of this section, “Homelessness” means:
 - (A) The status or circumstance of an individual who lacks a fixed, regular, and adequate nighttime residence; or
 - (B) The status or circumstance of an individual who has a primary nighttime residence that is:
 - (C) 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;

- (D) An institution that provides a temporary residence for individuals intended to be institutionalized; or
- (E) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

RCC § 22E-608. Pretrial Release Penalty Enhancements.

- (a) *Misdemeanor Pretrial Release Penalty Enhancement.* A misdemeanor pretrial release penalty enhancement applies to a misdemeanor when the offender committed the misdemeanor while on release pursuant to D.C. Code § 23-1321 for another offense.
- (b) *Felony Pretrial Release Penalty Enhancement.* A felony pretrial release penalty enhancement applies to a felony when the offender committed the felony while on release pursuant to D.C. Code § 23-1321 for another offense.
- (c) *Crime of Violence Pretrial Release Penalty Enhancement.* A crime of violence pretrial release penalty enhancement applies to a crime of violence when the defendant committed the crime of violence while on release pursuant to D.C. Code § 23-1321 for another offense.
- (d) *Penalty Enhancement Not Applicable Where Conduct Punished as Contempt or Violation of Condition of Release.* Notwithstanding any other provision of law, a penalty enhancement in this section does not apply to an offense when a person is convicted of contempt pursuant to D.C. Code § 11-741 or violation of a condition of release pursuant to D.C. Code § 23-1329 for the same conduct.
- (e) *Penalties.*
 - (1) *Misdemeanor Pretrial Release Penalty Enhancement.* A misdemeanor pretrial release penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
 - (2) *Felony Pretrial Release Penalty Enhancement.* A felony pretrial release penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
 - (3) *Crime of Violence Pretrial Release Penalty Enhancement.* A crime of violence pretrial release penalty enhancement [increases the maximum punishment for an offense by X class(es), X years, X.X times, or carries a mandatory minimum of X years].
- (f) *Definitions.*
 - (1) *Crime of Violence.* “Crime of violence” has the meaning specified in RCC § 22E-[XXX].
 - (2) *Felony.* “Felony” has the meaning specified in RCC § 22E-601.
 - (3) *Misdemeanor.* “Misdemeanor” has the meaning specified in RCC § 22E-601.]

RCC § 22E-701. Generally Applicable Definitions.

Unless otherwise defined in a particular ~~section provision~~, for purposes of this title, the term ~~in RCC Title 22E~~:

“Act” has the meaning specified in RCC § 22E-202.

“Actor” means person accused of a criminal offense.

“Amount of damage” means:

(A) When property is completely destroyed, the property’s fair market value before it was destroyed; or

(B) When the property is partially damaged, either:

(1) If there are repairs, the reasonable cost of necessary repairs, or

(2) If there are no repairs, the change in the fair market value of the damaged property.

(C) Notwithstanding subsection (B), if the reasonable cost of necessary repairs is greater than the fair market value of the property before it was partially damaged, the amount of damage is the fair market value of the property before it was partially damaged.

~~“Ammunition” has the meaning specified in D.C. Code § 7-2501.01.~~

~~“Assault weapon” has the meaning specified in D.C. Code § 7-2501.01.~~

~~“Attorney General” means the Attorney General for the District of Columbia.~~

“Audiovisual recording” means a material object upon which are fixed a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, now known or later developed, together with accompanying sounds, if any.

“Block~~;~~” and other parts of speech, including “blocks” and “blocking,” mean render ~~safe passage through a space difficult or impossible impassable without unreasonable hazard to any person.~~

“Bodily injury” means physical pain, ~~physical injury~~, illness, or any impairment of physical condition.

“Building” means a structure affixed to land that is designed to contain one or more natural persons.

“Bump stock” means any object that, when installed in or attached to a firearm, increases the rate of fire of the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

“Business yard” means securely fenced or walled land where goods are stored or merchandise is traded.

“Check” means any written instrument for payment of money by a financial institution.

“Circumstance element” has the meaning specified in RCC § 22E-201.

“Class A contraband” means:

- (A) A dangerous weapon or imitation dangerous weapon;
- (B) Ammunition or an ammunition clip;
- (C) Flammable liquid or explosive powder;
- (D) A knife, screwdriver, ice pick, box cutter, needle, or any other tool capable of cutting, slicing, stabbing, or puncturing a person;
- (E) A shank or homemade knife;
- (F) Tear gas, pepper spray, or other substance **designed or specifically adapted for ~~capable of~~** causing temporary blindness or incapacitation;
- (G) A tool **designed ~~created~~** or specifically adapted for picking locks, cutting chains, cutting glass, bypassing an electronic security system, or bypassing a locked door;
- (H) Handcuffs, security restraints, handcuff keys, or any other object designed or **specifically adapted for ~~intended to~~** locking, unlocking, or releasing handcuffs or security restraints;
- (I) A hacksaw, hacksaw blade, wire cutter, file, or any other object or tool **designed or specifically adapted for ~~capable of~~** cutting through metal, concrete, or plastic;
- (J) Rope; or
- (K) A law enforcement officer’s uniform, medical staff clothing, or any other uniform.

“Class B contraband” means:

- (A) Any controlled substance or marijuana;
- (B) Any alcoholic liquor or beverage;
- (C) A hypodermic needle or syringe or other item **designed or specifically adapted for ~~capable of~~** administering unlawful controlled substances; or
- (D) A portable electronic communication device or accessories thereto.

“Close relative” means a parent, grandparent, sibling, child, grandchild, aunt, or uncle.

“Coercive threat” means a threat, **~~express or implicit~~**, that, unless the complainant complies, any person will do any of the following:

- (A) Engage in conduct that, in fact, constitutes:
 - (1) An offense against persons as defined in subtitle II of RCC Title 22E; or
 - (2) A property offense as defined in subtitle III of RCC Title 22E;
- (B) Take or withhold action as a government official, or cause a government official to take or withhold action;
- (C) Accuse another person of a crime;

- (D) Expose a secret, publicize an asserted fact, or distribute a photograph, video or audio recording, regardless of the truth or authenticity of the secret, fact, or item, that tends to subject another person to, or perpetuate:
 - (1) Hatred, contempt, ridicule, or other significant injury to personal reputation; or
 - (2) Significant injury to credit or business reputation;
- (E) Notify a federal, state, or local government agency or official of, or publicize, another person's immigration or citizenship status;
- (F) Restrict a person's access to a controlled substance that the person owns, or restrict a person's access to prescription medication that the person owns; or
- (G) Cause any harm that is sufficiently serious, under all the ~~surrounding~~ circumstances, to compel a reasonable person of the same background and in the same circumstances as the complainant to comply.

~~“Commercial sex act” means any sexual act or sexual contact on account of which or for which anything of value is given to, promised to, or received by any person.~~

~~“Community based organization” means an organization that provides services, including medical care, counseling, homeless services, or drug treatment, to individuals and communities impacted by drug use. The term "community-based organization" includes all organizations currently participating in the Needle Exchange Program with the Department of Human Services under § 48-1103.01.~~

~~“Comparable offense” means a crime committed against the District of Columbia, a state, a federally-recognized Indian tribe, or the United States and its territories, with elements that would necessarily prove the elements of a corresponding District crime.~~

~~“Complainant” means person who is alleged to have been subjected to any criminal offense.~~

~~“Conduct element” has the meaning specified in RCC § 22E-201.~~

~~“Consent” means:~~

- ~~(A) A word or act that indicates, expressly or implicitly, agreement to particular conduct or a particular result; and~~
- ~~(B) Is not given by a person who:~~
 - ~~(1) Is legally incompetent to authorize the conduct charged to constitute the offense or to the result thereof; or~~
 - ~~(2) Because of youth, mental illness or disorder, or intoxication, is known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct to constitute the offense or to the result thereof.~~

~~“Controlled substance” has the meaning specified in D.C. Code 48-901.02.~~

“Correctional facility” means any building or building grounds located in the District of Columbia, operated by the Department of Corrections for the secure confinement of persons charged with or convicted of a criminal offense.

“Counterfeit mark” means any trademark, service mark, trade name, label, term, picture, seal, word, or advertisement or any combination of these adopted or used by a person to identify such person’s goods or services and which is lawfully filed for record in the Office of the Secretary of State of any state or which the exclusive right to reproduce is guaranteed under the laws of the United States or the District of Columbia, that is used without the permission of the owner of the trademark, service mark, trade name, label, term, picture, seal, word, or advertisement.

~~“Court” means the Superior Court of the District of Columbia.~~

“Crime of violence”

“Culpability requirement” has the meaning specified in RCC § 22E-201.

“Culpable mental state” has the meaning specified in RCC § 22E-205.

“Dangerous weapon” means:

- (A) A firearm;
- (B) A restricted explosive;
- (C) A knife with a blade longer than 3 inches, sword, razor, stiletto, dagger, or dirk; or
- (D) A blackjack, billy club, slungshot, sand club, sandbag, or false knuckles;
- (E) A stun gun; or
- (F) Any object, other than a body part or stationary object, that in the manner of its actual, attempted, or threatened use is likely to cause death or serious bodily injury to a person.

“Debt bondage” means the status or condition of a person who provides labor, services, or commercial sex acts, for a real or alleged debt, where:

- (A) The value of the labor, services, or commercial sex acts, as reasonably assessed, is not applied toward the liquidation of the debt;
- (B) The length and nature of the labor, services, or commercial sex acts are not respectively limited and defined; or
- (C) The amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

“Deceive” and “deception” mean:

- (A) Creating or reinforcing a false impression as to a material fact, including false impressions as to intention to perform future actions;
- (B) Preventing another person from acquiring material information;

- (C) Failing to correct a false impression as to a material fact, including false impressions as to intention, which the person previously created or reinforced, or which the deceiver knows to be influencing another to whom he or she stands in a fiduciary or confidential relationship; or
- (D) For offenses against property in Subtitle III of this title, failing to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he or she transfers or encumbers in consideration for property, whether or not it is a matter of official record.
- (E) The terms “deceive” and “deception” do not include puffing statements unlikely to deceive ordinary persons, and deception as to a person’s intention to perform a future act shall not be inferred from the fact alone that he or she did not subsequently perform the act.

“Demonstration” means marching, congregating, standing, sitting, lying down, parading, or patrolling by one or more persons, with or without signs, for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief.

“Deprive” means:

- (A) Withhold property or cause it to be withheld from an owner permanently, or for so extended a period or under such circumstances that a substantial portion of its value or its benefit is lost to the owner; or
- (B) Dispose of the property, or use or deal with the property so as to make it unlikely that the owner will recover it.

“Detection device” means any wearable equipment with **location tracking electronic monitoring** capability, **including** global positioning system, **and** ~~or~~ radio frequency identification technology.

~~“Distribute” has the meaning specified in D.C. Code 48-901.02.~~

“District official” has the same meaning as “public official” in D.C. Code § 1-1161.01(47)(A) - (H).

“Domestic partner” has the **same** meaning as provided in D.C. Code § 32-701(3).

“Domestic partnership” ~~shall have~~ **has** the **same** meaning as provided in D.C. Code § 32-701(4).

“Dwelling” means a structure that is either designed for lodging or residing overnight at the time of the offense, or that is actually used for lodging or residing overnight, **including**, in multi-unit buildings, **communal areas secured from the general public such as apartment or hotels, each individual unit is a dwelling.**

“Effective consent” means consent other than consent induced by physical force, an **express or implied** coercive threat, or deception.

“Elderly person” means a person who is 65 years of age or older.

“Factual cause” has the meaning specified in RCC § 22E-204.

“Fair market value” means the price which a purchaser who is willing, but not obligated, to buy would pay an owner who is willing, but not obligated to sell, considering all the uses to which the property is adapted and might reasonably be applied.

“False knuckles” means an object, whether made of metal, wood, plastic, or other similarly durable material that is constructed of one piece, the outside part of which is designed to fit over and cover the fingers on a hand and the inside part of which is designed to be gripped by the fist.

“Financial injury” means the reasonable monetary costs, debts, or obligations incurred by a natural person as a result of a criminal act, including, ~~but not limited to:~~

- (A) The costs of clearing a name, debt, credit rating, credit history, criminal record, or any other official record;
- (B) The costs of repairing or replacing any property that was taken or damaged;
- (C) Medical bills;
- (D) Relocation costs;
- (E) Lost wages or compensation; and
- (F) Attorneys’ fees.

“Firearm” has the meaning specified in D.C. Code § 7-2501.01, except that in Chapter 41 of Title 22 the term “firearm”:

- (A) Shall not include a firearm frame or receiver;
- (B) Shall not include a firearm muffler or silencer; and
- (C) Shall include operable antique pistols.

~~“Firearms instructor” has the meaning specified in D.C. Code § 7-2501.01.~~

~~“Gun offense” has the meaning specified in D.C. Code § 7-2508.01.~~

“Halfway house” means any building or building grounds located in the District of Columbia used for the confinement of persons participating in a work release program under D.C. Code § 24-241.01.

“Healthcare provider” means a person referenced in D.C. Code § 16-2801.

“Health professional” means a person required to obtain a District license, registration, or certification per D.C. Code § 3-1205.01.

“Identification number” means a number or symbol that is originally inscribed or affixed by the manufacturer to a motor vehicle or motor vehicle part for purposes of identification.

“Image” means a visual depiction, other than a depiction rendered by hand, including a video, film, photograph, or hologram, whether in print, electronic, magnetic, ~~or~~ digital, ~~or~~ other format.

“Imitation dangerous weapon” means an object used or fashioned in a manner that would cause a reasonable person to believe that the object is a dangerous weapon.

“Imitation firearm” means any instrument that resembles an actual firearm closely enough that a person observing it might reasonably believe it to be real.

~~“Immediate precursor” has the meaning specified in D.C. Code 48-901.02.~~

“Innocent or irresponsible person” has the meaning specified in RCC § 22E-211.

“In fact” has the meaning specified in RCC § 22E-207.

“Intentionally” and other parts of speech, including “intent,” have the meaning specified in RCC § 22E-206.

“Intoxication” has the meaning specified in RCC § 22E-209.

“Knowingly,” and other parts of speech, including “know,” “known,” “knows,” “knowing,” and “knowledge,” have the meaning specified in RCC § 22E-206.

~~“Labor” means work that has economic or financial value, other than a commercial sex act.~~

“Large capacity ammunition feeding device” means a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term “large capacity ammunition feeding device” shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

“Law enforcement officer” means:

- (A) A sworn member, officer, reserve officer, or designated civilian employee of the Metropolitan Police Department, including any reserve officer or designated civilian employee of the Metropolitan Police Department;
- (B) A sworn member or officer of the District of Columbia Protective Services;
- (C) A licensed special police officer;
- (D) The Director, deputy directors, officers, or employees of the District of Columbia Department of Corrections;
- (E) Any officer or employee of the government of the District of Columbia charged with supervision of juveniles being confined pursuant to law in

- any facility of the District of Columbia regardless of whether such institution or facility is located within the District;
- (F) Any probation, parole, supervised release, community supervision, or pretrial services officer or employee of the Department of Youth Rehabilitation Services, the Family Court Social Services Division of the Superior Court, the Court Services and Offender Supervision Agency, or the Pretrial Services Agency;
 - (G) Metro Transit police officers; and
 - (H) Any federal, state, county, or municipal officer performing functions comparable to those performed by the officers described in subparagraphs (A), ~~(B), (C), (D), (E), and (F)~~ - (G) of this paragraph, including ~~but not limited to~~ state, county, or municipal police officers, sheriffs, correctional officers, parole officers, and probation and pretrial service officers.

“Legal cause” has the meaning specified in RCC § 22E-204.

“Live broadcast” means a streaming video, or any other electronically transmitted image for simultaneous viewing by one or more ~~other~~ people.

~~“Live exhibition” means an in-person visual presentation intended for simultaneous viewing by one or more other people.~~

“Live performance” means a play, dance, or other visual presentation or exhibition for an audience, ~~including an audience of one person.~~

~~“Manufacture” has the meaning specified in D.C. Code 48-901.02.~~

~~“Machine gun” has the meaning specified in D.C. Code § 7-2501.01.~~

~~“Meeting” has the meaning specified in D.C. Code § 2-574.~~

“Monitoring equipment or software” means equipment or software with location tracking capability, including global positioning system and radio frequency identification technology.

~~“Motion picture theater” means a theater, auditorium, or other venue that is being utilized primarily for the exhibition of a motion picture to the public.~~

“Motor vehicle” means any automobile, all-terrain vehicle, self-propelled mobile home, motorcycle, truck, truck tractor with or without a semitrailer or trailer, bus, or other vehicle designed to be propelled only by an internal-combustion engine or electricity.

“Negligently” has the meaning specified in RCC § 22E-206.

“Objective element” has the meaning specified in RCC § 22E-201.

“Obscene” means:

- (A) Appealing to a prurient interest in sex, under contemporary community standards and considered as a whole;
- (B) **Is** patently offensive; and
- (C) Lacking serious literary, artistic, political, or scientific value, considered as a whole.

“Offense element” has the meaning specified in RCC § 22E-201.

“Omission” has the meaning specified in RCC § 22E-202.

“Open to the general public” means a location:

- (A) To which the public is invited; and
- (B) For which no payment, membership, affiliation, appointment, or special permission is required for an adult to enter, provided that the location may require entrants to show proof of age or identity and may require security screening for dangerous items.

~~“Opium poppy” has the meaning specified in D.C. Code 48-901.02.~~

“Owner” means a person holding an interest in property with which the actor is not privileged to interfere without consent.

“Payment card” means an instrument of any kind, **whether tangible or digital**, including an instrument known as a credit card or debit card, issued for use of the cardholder for obtaining or paying for property, or the number inscribed on such a card. “Payment card” includes the number or description of the instrument.

~~“Person” has the meaning specified in D.C. Code 48-901.02.~~

“Person,” in Subtitle III of this Title, means an individual, whether living or dead, as well as a trust, estate, fiduciary, partnership, company, corporation, association, organization, union, government, government agency, or government-owned corporation, or any other legal entity.

“Person with legal authority over the complainant” means:

- (A) When the complainant is under 18 years of age, the parent, or a person acting in the place of a parent per civil law, who is responsible for the general care and supervision of the complainant, or someone acting with the effective consent of such a parent or person; or
- (B) When the complainant is an incapacitated individual, the court-appointed guardian to the complainant engaging in conduct permitted under civil law controlling the actor’s guardianship, or someone acting with the effective consent of such a guardian.

“Person acting in the place of a parent per civil law” means both a person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to legal adoption, and any person acting by, through, or under the direction of a court with jurisdiction over the child.

“Personal identifying information” shall include, ~~but is not limited to~~ the following:

- (A) Name, address, telephone number, date of birth, or mother’s maiden name;
- (B) Driver’s license or driver’s license number, or non-driver’s license or non-driver’s license number;
- (C) Savings, checking, or other financial account number;
- (D) Social security number or tax identification number;
- (E) Passport or passport number;
- (F) Citizenship status, visa, or alien registration card or number;
- (G) Birth certificate or a facsimile of a birth certificate;
- (H) Credit or debit card, or credit or debit card number;
- (I) Credit history or credit rating;
- (J) Signature;
- (K) Personal identification number, electronic identification number, password, access code or device, electronic address, electronic identification number, routing information or code, digital signature, or telecommunication identifying information;
- (L) Biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
- (M) Place of employment, employment history, or employee identification number; and
- (N) Any other numbers or information that can be used to access a person’s financial resources, access medical information, obtain identification, act as identification, or obtain property.

“Physically following” means maintaining close proximity to a ~~complainant, near enough to see or hear the complainant’s activities~~ ~~person~~ as they move from one location to another.

“Physically monitoring” means being in close proximity to a person’s residence, workplace, or school to detect the person’s whereabouts or activities.

~~“Pistol” has the meaning specified in D.C. Code § 7-2501.01.~~

~~“Poppy straw” has the meaning specified in D.C. Code 48-901.02.~~

“Position of trust with or authority over” means a relationship with respect to a complainant of:

- (A) A parent, sibling, aunt, uncle, or grandparent, whether related by blood, marriage, domestic partnership, or adoption, ~~or an individual with whom such a person is in a romantic, dating, or sexual relationship;~~

- (B) ~~A legal or de facto guardian~~ person acting in the place of a parent per civil law, the spouse or domestic partner of such a person, or an individual with whom such a person is in a romantic, dating, or sexual relationship;
- (C) ~~a~~Any person, ~~more than~~ at least 4 years older than the complainant, who resides intermittently or permanently in the same dwelling as the complainant;
~~The person or the spouse, domestic partner, or paramour of the person who is charged with any duty or responsibility for the health, welfare, or supervision of the complainant at the time of the offense; and~~
- (D) Any employee, contractor, or volunteer of a school, ~~church, synagogue, mosque, or other~~ religious institution, or an educational, social, recreational, athletic, musical, charitable, or youth facility, organization, or program; ~~that has significant contact with the complainant or exercises supervisory or disciplinary authority over the complainant including a teacher, coach, counselor, clergy, youth leader, chorus director, bus driver, administrator, or support staff, or other person responsible under civil law for the care or supervision of the complainant; or~~
- (E) A person responsible under civil law for the health, welfare, or supervision of the complainant.

“Possess,” and other parts of speech, including “possesses,” “possessing,” and “possession” means:

- (A) Hold or carry on one’s person; or
- (B) Have the ability and desire to exercise control over.

~~“Prohibited weapon” means:~~

- ~~(A) A machine gun or sawed-off shotgun, as defined at D.C. Code § 7-2501;~~
- ~~(B) A firearm silencer;~~
- ~~(C) A blackjack, slungshot, sandbag cudgel, or sand club;~~
- ~~(D) Metallic or other false knuckles as defined at D.C. Code § 22-4501; or~~
- ~~(E) A switchblade knife.~~

“Property” means anything of value. The term “property” includes, ~~but is not limited to:~~

- (A) Real property, including things growing on, affixed to, or found on land;
- (B) Tangible or intangible personal property, ~~including an animal;~~
- (C) Services;
- (D) Credit;
- (E) ~~Debt~~ Money, or any paper or document that evidences ownership in or of property, an interest in or a claim to wealth, or a debt owed; and
- (F) A government-issued license, permit, or benefit.

“Property of another” means any property that a person has an interest in with which the actor is not privileged to interfere without consent, regardless of whether the actor also has an interest in that property. The term “property of another” does not include any property in the possession of the actor with which the other person has only a security interest.

“Protected person” means a ~~person~~ complainant who is:

- (A) Under 18 years of age, when, in fact, the actor is 18 years of age or older and at least 4 years older than the complainant;
- (B) 65 years of age or older, when, in fact, the actor is ~~under the age of 65 years~~ and at least 10 years younger than the complainant;
- (C) A vulnerable adult;
- (D) A law enforcement officer, while in the course of his or her official duties;
- (E) A public safety employee, while in the course of his or her official duties;
- (F) A transportation worker, while in the course of his or her official duties; or
- (G) A District official, while in the course of his or her official duties.

“Protection order” means an order issued pursuant to D.C. Code § 16-1005(c).

~~“Public body” has the meaning specified in D.C. Code § 2-574.~~

“Public conveyance” means any government-operated air, land, or water vehicle used for the transportation of persons, including ~~but not limited to~~ any airplane, train, bus, or boat.

“Public safety employee” means:

- (A) A District of Columbia firefighter, emergency medical technician/ paramedic, emergency medical technician/intermediate paramedic, or emergency medical technician;
- (B) Any investigator, vehicle inspection officer as defined in D.C. Code § 50-301.03(30B), or code inspector, employed by the government of the District of Columbia; and
- (C) Any federal, state, county, or municipal officer performing functions comparable to those performed by the District of Columbia employees described in paragraph (A) and paragraph (B).

“Purposely,” and other parts of speech, including “purpose,” have the meaning specified in RCC § 22E-206.

~~“Rail transit station” has the meaning specified in D.C. Code § 35-251.~~

“Recklessly,” and other parts of speech, including “reckless” and “recklessness,” have the meaning specified in RCC § 22E-206.

“Recording device” means a photographic or video camera, audio or video recorder, or any other device not existing, or later developed, which may be used for recording sounds or images.

“Restricted explosive” means any device designed to explode or produce uncontained combustion upon impact, including a breakable container containing flammable liquid and having a wick or a similar device capable of being ignited. The term “restricted

explosive” does not include any device lawfully and commercially manufactured primarily for the purpose of illumination, construction work, or other lawful purpose.

~~“Restricted pistol bullet” has the meaning specified for “restricted pistol bullet” in D.C. Code § 7-2501.01.~~

“Result element” has the meaning specified in RCC § 22E-201.

“Retail value” means the actor’s regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the actor’s regular selling price of the finished product on or in which the component would be utilized.

“Sadomasochistic abuse” means flagellation, torture, or physical restraint by or upon a person as an act of sexual stimulation or gratification.

~~“Safety” means ongoing security from significant intrusions on one’s bodily integrity or bodily movement.~~

~~“Sawed-off shotgun” has the meaning specified for “sawed-off shotgun” in D.C. Code § 7-2501.01.~~

“Secure juvenile detention facility” means any building or building grounds, whether located in the District of Columbia or elsewhere, operated by the Department of Youth Rehabilitation Services for the secure confinement of persons committed to the Department of Youth Rehabilitation Services.

“Self-induced intoxication” has the meaning specified in RCC § 22E-209.

“Serious bodily injury” means a bodily injury or significant bodily injury that involves:

- (A) A substantial risk of death;
- (B) Protracted and obvious disfigurement; ~~or~~
- (C) Protracted loss or impairment of the function of a bodily member or organ; ~~or~~
- (D) **Protracted loss of consciousness.**

“Serious mental injury” means substantial, prolonged harm to a person’s psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal, or outwardly aggressive behavior, or a combination of those behaviors, and which may be demonstrated by a change in behavior, emotional response, or cognition.

“Services” includes, ~~but is not limited to:~~

- (A) Labor, whether professional or nonprofessional;
- (B) The use of vehicles or equipment;
- (C) Transportation, telecommunications, energy, water, sanitation, or other public utility services, whether provided by a private or governmental entity;

- (D) The supplying of food, beverage, lodging, or other accommodation in hotels, restaurants, or elsewhere;
- (E) Admission to public exhibitions or places of entertainment; and
- (F) Educational and hospital services, accommodations, and other related services.

“Sexual act” means:

- (A) Penetration, however slight, of the anus or vulva of any person by a penis;
- (B) Contact between the mouth of any person and another person’s penis, vulva, or anus;
- (C) Penetration, however slight, of the anus or vulva of any person by ~~a hand or finger~~ **any body part** or by any object, with the desire to sexually abuse, humiliate, harass, degrade, arouse, or gratify any person, or at the direction of someone with such a desire; or
- (D) Conduct described in subsections (A)-(C) between a person and an animal.

“Sexual contact” means:

- (A) Sexual act; or
- (B) Touching of the clothed or unclothed genitalia, anus, groin, breast, inner thigh, or buttocks of any person:
 - (i) With any clothed or unclothed body part or any object, either directly or through the clothing; and
 - (ii) With the desire to sexually abuse, humiliate, harass, degrade, arouse, or gratify any person, or at the direction of someone with such a desire.

“Significant bodily injury” means a bodily injury that, to prevent long-term physical damage or to abate severe pain, requires hospitalization or immediate medical treatment beyond what a layperson can personally administer. **In addition, t**~~The~~ following injuries constitute at least a significant bodily injury: a fracture of a bone; a laceration that is at least one inch in length and at least one quarter inch in depth; a burn of at least second degree severity; a ~~temporary brief~~ loss of consciousness; a traumatic brain injury; and a contusion, **petechia**, or other bodily injury to the neck or head ~~caused by sustained during~~ strangulation or suffocation.

“Significant emotional distress” means substantial, ongoing mental suffering that may, but does not necessarily, require medical or other professional treatment or counseling. It is must rise significantly above the level of uneasiness, nervousness, unhappiness, **or similar feeling, that or the like which** is commonly experienced in day to day living.

“Simulated” means feigned or pretended in a way which realistically duplicates the appearance of actual conduct.

“Sound recording” means a material object in which sounds, other than those accompanying a motion picture or other audiovisual recording, are fixed by any method now known or later developed, from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

“Speech” means oral or written language, symbols, or gestures.

“Strangulation or suffocation” means a restriction of normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth.

“Strict liability” or “strictly liable” has the meaning specified in RCC § 22E-205.

~~“Stun gun” has the meaning specified in D.C. Code § 7-2501.01.~~

“Transportation worker” means:

- (A) A person who is licensed to operate, and is operating, a publicly or privately owned or operated commercial vehicle for the carriage of 6 or more passengers, including any Metrobus, Metrorail, Metroaccess, or DC Circulator vehicle or other bus, trolley, or van operating within the District of Columbia;
- (B) Any Washington Metropolitan Area Transit Authority employee who is assigned to supervise a Metrorail station from a kiosk at that station within the District of Columbia;
- (C) A person who is licensed to operate, and is operating, a taxicab within the District of Columbia; and
- (D) A person who is licensed to operate, and is operating within the District of Columbia, a personal motor vehicle to provide private vehicle-for-hire service in contract with a private vehicle-for-hire company as defined by D.C. Code § 50-301.03(16B).

~~“Undue influence” means: mental, emotional, or physical coercion that overcomes the free will or judgment of a vulnerable adult or elderly person and causes the vulnerable adult or elderly person to act in a manner that is inconsistent with his or her financial, emotional, mental, or physical well-being.~~

“Value” means:

- (A) The fair market value of the property at the time and place of the offense; or
- (B) If the fair market value cannot be ascertained:
 - (1) For property other than a written instrument, the cost of replacement of the property within a reasonable time after the offense;
 - (2) For a written instrument constituting evidence of debt, such as a check, draft, or promissory note, the amount due or collectible thereon, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied; and
 - (3) For any other written instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the written instrument.
- (C) Notwithstanding subsections (A) and (B) of this section, the value of a payment card ~~alone~~ is \$[X] and the value of an unendorsed check ~~alone~~ is \$[X].

“Vulnerable adult” means a person who is 18 years of age or older and has one or more physical or mental limitations that substantially impair the person’s ability to independently provide for his or her daily needs or safeguard his or her person, property, or legal interests.

“Written instrument” includes, ~~but is not limited to,~~ any:

- (A) Security, bill of lading, document of title, draft, check, certificate of deposit, and letter of credit, as defined in Title 28 of the D.C. Code;
- (B) A will, contract, deed, or any other document purporting to have legal or evidentiary significance;
- (C) Stamp, legal tender, or other obligation of any domestic or foreign governmental entity;
- (D) Stock certificate, money order, money order blank, traveler’s check, evidence of indebtedness, certificate of interest or participation in any profit sharing agreement, transferable share, investment contract, voting trust certificate, certification of interest in any tangible or intangible property, and any certificate or receipt for or warrant or right to subscribe to or purchase any of the foregoing items;
- (E) Commercial paper or document, or any other commercial instrument containing written or printed matter or the equivalent; or
- (F) Other instrument commonly known as a security or so defined by an Act of Congress or a provision of the District of Columbia Official Code.

SUBTITLE II. OFFENSES AGAINST PERSONS.

Chapter 11. Homicide.

RCC § 22E-1101. Murder.

- (a) *First Degree.* A person commits first degree murder when that person purposely, with premeditation and deliberation, causes the death of another person.
- (b) *Second Degree.* A person commits second degree murder when that person:
 - (1) Recklessly, with extreme indifference to human life, causes the death of another person; or
 - (2) Negligently causes the death of another person, other than an accomplice, by committing the lethal act in the course of and in furtherance of committing or attempting to commit one of the following offenses: first or second degree arson as defined in RCC § 22E-2501; first degree sexual abuse as defined in RCC § 22E-1303; first degree sexual abuse of a minor as defined in RCC § 22E-1304; first and second degree ~~child abuse~~ **criminal abuse of a minor** as defined in RCC § 22E-1501; first degree burglary as defined in RCC § 22E-2701 when committed while possessing a dangerous weapon on his or her person; first, second, third, or fourth degree robbery as defined in RCC § 22E-1501; or first or second degree kidnapping as defined in RCC § 22E-1401.

- (c) *Voluntary Intoxication.* A person shall be deemed to have consciously disregarded the risk required to prove that the person acted with extreme indifference to human life in paragraph (b)(1) if the person, is unaware of the risk due to ~~his or her~~ self-induced intoxication, but would have been aware had ~~he or she~~ the person been sober.
- (d) *Penalties.* Subject to the merger provisions in RCC § 22E-214 and subsection (h) of this section:
- (1) First degree murder is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree murder is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) *Enhanced Penalties.* ~~The penalty classification for first degree murder and second degree murder may be increased in severity by one penalty class, i~~In addition to any penalty enhancements under this title ~~applicable per Chapter 8 of this Title,~~ the penalty classification for first degree murder and second degree murder is increase in severity by one penalty class when a person commits first degree murder or second degree murder and the person:
 - (A) Is reckless as to the fact that ~~that~~ the decedent is a protected person;
 - (B) Commits the murder with the purpose of harming the decedent because of the decedent's status as a law enforcement officer, public safety employee, or District official;
 - (C) Commits the murder with intent to avoid or prevent a lawful arrest or effecting an escape from custody;
 - (D) Knowingly commits the murder for hire;
 - (E) Knowingly inflicts extreme physical pain or mental suffering for a prolonged period of time immediately prior to the decedent's death;
 - (F) Knowingly mutilates or desecrates the decedent's body; ~~or~~
 - (G) In fact, commits the murder after substantial planning-;
 - (H) ~~The murder was a drive-by or random shooting; or~~
 - (I) ~~Commits the murder with the purpose of harming the decedent because was or had been a witness in any criminal investigation or judicial proceeding, or the decedent was capable of providing or had provided assistance in any criminal investigation or judicial proceeding.~~
- (e) *Evidence of Extreme Pain, Mental Suffering, Mutilation, or Desecration.* Notwithstanding any other provision of law, a person charged with penalty enhancements under subparagraph (c)(3)(E) or (c)(3)(F) shall be subject to a bifurcated criminal proceeding ~~with the same jury or fact finder serving in both stages of the proceeding.~~ In the first stage of the proceeding, the factfinder must determine if the defendant committed either first degree murder as defined under subsection (a) or second degree murder as defined under subsection (b). In the first stage of the proceeding, evidence of penalty enhancements under subparagraph (c)(3)(E) or (c)(3)(F) is inadmissible except if such evidence is

relevant to determining whether the defendant committed first degree murder or second degree murder. In the second stage of the proceeding, after the defendant has been found guilty of either first degree murder or second degree murder, the factfinder may consider any evidence relevant to penalty enhancements under subparagraphs (c)(3)(E) or (c)(3)(F).

(f) *Defenses.*

(1) *Mitigation Defense.* In addition to any defenses otherwise applicable to the defendant's conduct under District law, the presence of mitigating circumstances is a defense to prosecution under **subsection (a) and paragraph (b)(1) of this section**. Mitigating circumstances means:

- (A) Acting under the influence of an extreme emotional disturbance for which there is a reasonable cause as determined from the viewpoint of a reasonable person in the actor's situation under the circumstances as the actor believed them to be;
- (B) Acting with an unreasonable belief that the use of deadly force was necessary to prevent a person from unlawfully causing **imminent death or serious bodily injury to the actor or another person**; or
- (C) Any other legally-recognized partial defense which substantially diminishes either the actor's culpability or the wrongfulness of the actor's conduct.

(2) *Burden of Proof for Mitigation Defense.* If any evidence of mitigation is present at trial, the government must prove the absence of such circumstances beyond a reasonable doubt.

(3) *Effect of Mitigation Defense.* If the government fails to prove the absence of mitigating circumstances beyond a reasonable doubt, but proves all other elements of murder, the actor is not guilty of murder, but is guilty of voluntary manslaughter.

(g) *No Accomplice Liability for Felony Murder.* Notwithstanding RCC § 22E-210, no person shall be guilty as an accomplice to second degree murder under paragraph (b)(2).

(h) *Sentencing.*

(1) [RESERVED. For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), murder in the first degree, and murder in the second degree are Class A felonies.]

(i) *Definitions.* The terms "knowingly," "negligently," "purposely," "recklessly," and have the meanings specified in RCC § 22E-206; the terms "actor," "law enforcement officer," "possess," "protected person," "public safety employee," and "District official," have the meanings specified in RCC § 22E-701; and the terms "intoxication" and "self-induced intoxication" have the meanings specified in RCC § 22E-209.

RCC § 22E-1102. Manslaughter.

(a) *Voluntary Manslaughter.* A person commits voluntary manslaughter when that person:

- (1) Recklessly, with extreme indifference for human life, causes death of another person; or
 - (2) Negligently causes the death of another person, other than an accomplice, by committing the lethal act in in the course of and in furtherance of committing or attempting to commit one of the following offenses: first or second degree arson as defined in RCC § 22E-2501; first degree sexual abuse as defined in RCC § 22E-1303; first degree sexual abuse of a minor as defined in RCC § 22E-1304; first and second degree ~~child abuse~~ **criminal abuse of a minor** as defined in RCC § 22E-1501; first degree burglary as defined in RCC § 22E-2701, when committed while possessing a dangerous weapon on his or her person; first, second, third, or fourth degree robbery as defined in RCC § 22E-1501; or first or second degree kidnapping as defined in RCC § 22E-1401.
- (b) *Involuntary Manslaughter.* A person commits involuntary manslaughter when that person recklessly causes the death of another person.
- (c) *Voluntary Intoxication.* A person shall be deemed to have consciously disregarded the risk required to prove that the person acted with extreme indifference to human life in paragraph (a)(1) if the person is unaware of the risk due to his or her self-induced intoxication, but would have been aware had he or she been sober.
- (d) *Penalties.*
- (1) Voluntary manslaughter is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Involuntary manslaughter is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) *Enhanced Penalties for Voluntary and Involuntary Manslaughter.* ~~The penalty classification for voluntary and involuntary manslaughter may be increased in severity by one penalty class, i~~In addition to any penalty enhancements applicable under this title ~~per Chapter 8 of this Title~~, the penalty classification for voluntary manslaughter and involuntary manslaughter is increase in severity by one penalty class when a person commits voluntary or involuntary manslaughter and the person:
 - (A) Is reckless as to the fact that the decedent is a protected person; or
 - (B) Commits the offense with the purpose of harming the decedent because of the decedent’s status as a law enforcement officer, public safety employee, or District official.
- (e) *Definitions.* The terms “negligently,” “purposely,” and “recklessly” have the meanings specified in RCC § 22E-206; the terms “District official,” “law enforcement officer,” “possess,” “protected person,” “public safety employee” have the meanings specified in RCC § 22E-701; and the terms “intoxication” and “self-induced intoxication” have the meanings specified in RCC § 22E-209.

RCC § 22E-1103. Negligent Homicide.

- (a) *Offense.* A person commits negligent homicide when that person negligently causes the death of another person.

- (b) *Penalties.* Negligent homicide is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The term “negligently” has the meaning specified in RCC § 22E-206.

Chapter 12. Robbery, Assault, and Threats.

RCC § 22E-1201. Robbery.

- (a) *First Degree.* A person commits first degree robbery when that person:
 - (1) Commits fifth degree robbery; and
 - (2) In the course of doing so, to someone other than an accomplice:
 - (A) Recklessly causes serious bodily injury by displaying or using what, in fact, is a dangerous weapon **or imitation dangerous weapon**; or
 - (B) Recklessly causes serious bodily to a protected person.
- (b) *Second Degree.* A person commits second degree robbery when that person:
 - (1) Commits fifth degree robbery and;
 - (2) In the course of doing so, to someone other than an accomplice:
 - (A) Recklessly causes serious bodily injury;
 - (B) Recklessly causes significant bodily injury by displaying or using what, in fact, is a dangerous weapon **or imitation dangerous weapon**.
- (c) *Third Degree.* A person commits third degree robbery when that person:
 - (1) Commits fifth degree robbery and;
 - (2) Either:
 - (A) In the course of doing so, to someone other than an accomplice:
 - (i) Recklessly causes significant bodily injury to a protected person; or
 - (ii) Recklessly causes bodily injury by displaying or using what, in fact, is a dangerous weapon **or imitation dangerous weapon**; or
 - (B) In fact, the property that is the object of the offense is a motor vehicle, and the person recklessly displays or uses what, in fact, is a dangerous weapon **or imitation dangerous weapon**.
- (d) *Fourth Degree.* A person commits fourth degree robbery when that person:
 - (1) Commits fifth degree robbery; and
 - (2) Either:
 - (A) In the course of doing so, to someone other than an accomplice:
 - (i) Recklessly causes significant bodily injury; ~~or~~
 - (ii) Recklessly displays **or uses** what, in fact, is a dangerous weapon or imitation dangerous weapon;
 - (iii) Recklessly causes bodily injury to a protected person; or
 - (B) In fact, the property that is the object of the offense is a motor vehicle.
- (e) *Fifth Degree.* A person commits fifth degree robbery when that person:
 - (1) Knowingly takes or exercises control over the property of another;

- (2) That the complainant possesses either on his or her person or within his or her immediate physical control;
- (3) With intent to deprive the complainant of the property; and
- (4) Knowingly does so by:
 - (A) Causing bodily injury to the complainant or any person present other than an accomplice;
 - (B) Threatening to immediately kill, kidnap, ~~or~~ inflict bodily injury to, ~~or commit a sexual act, against~~ the complainant or any person present other than an accomplice; ~~or~~
 - (C) ~~Threatening to cause any other person present other than an accomplice, to engage in a sexual act or sexual contact;~~
 - (D) Using physical force that overpowers the complainant or any person present other than an accomplice; ~~or~~
 - (E) ~~Removing property from the hand or arms of the complainant.~~
- (f) *Penalties.*
 - (1) First degree robbery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree robbery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree robbery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree robbery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree robbery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both
- (g) *Definitions.* The terms “intent,” “knowingly,” “purpose,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “bodily injury,” “dangerous weapon,” “imitation dangerous weapon,” “motor vehicle,” ~~“person,”~~ “possesses,” “protected person,” “serious bodily injury,” and “significant bodily injury” have the meanings specified in RCC § 22E-~~901~~701.

RCC § 22E-1202. Assault.

- (a) *First ~~D~~egree.* A person commits first degree assault when that person:
 - (1) Purposely causes serious and permanent disfigurement to the complainant;
 - (2) Purposely destroys, amputates, or permanently disables a member or organ of the complainant’s body;
 - (3) Recklessly, with extreme indifference to human life, causes serious bodily injury to the complainant by displaying or using ~~an object that~~ what, in fact, is a dangerous weapon ~~or imitation dangerous weapon;~~ or
 - (4) Recklessly, with extreme indifference to human life, causes serious bodily injury to the complainant:
 - (A) Reckless as to the fact that the complainant is a protected person;or

- (B) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official.
- (b) *Second Ddegree.* A person commits second degree assault when that person:
- (1) Recklessly, with extreme indifference to human life, causes serious bodily injury to the complainant; or
 - (2) Recklessly causes significant bodily injury to the complainant by displaying or using ~~an object that~~ *what*, in fact, is a dangerous weapon *or imitation dangerous weapon*.
- (c) *Third Ddegree.* A person commits third degree assault when that person:
- (1) Recklessly causes significant bodily injury to the complainant:
 - (A) Reckless as to the fact that the complainant is a protected person; or
 - (B) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official; or
 - (2) Recklessly causes bodily injury to the complainant by displaying or using ~~an object that~~ *what*, in fact, is a dangerous weapon *or imitation dangerous weapon*.
- (d) *Fourth Ddegree.* A person commits fourth degree assault when that person recklessly causes significant bodily injury to the complainant.
- (e) *Fifth Ddegree.* A person commits fifth degree assault when that person:
- (1) Recklessly causes bodily injury to the complainant:
 - (A) Reckless as to the fact that the complainant is a protected person; or
 - (B) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official; or
 - (2) Negligently causes bodily injury to the complainant by discharging ~~an object that~~ *what*, in fact, is a firearm ~~as defined in D.C. Code § 22-4501(2A)~~.
- (f) *Sixth Ddegree.* A person commits sixth degree assault when that person recklessly causes bodily injury to the complainant.
- (g) *Limitation on Jjustification and Eexcuse Ddefenses to Aassault on a Llaw Eenforcement Oofficer.* For prosecutions brought under this section, there are no justification or excuse defenses under RCC [§§ 22E-XXX – 22E-XXX] for a person to actively oppose the use of physical force by a law enforcement officer when:
- (1) The person ~~was~~ *is* reckless as to the fact that the complainant ~~was~~ *is* a law enforcement officer;
 - (2) *In fact* ~~T~~the use of force ~~occurreds~~ during an arrest, stop, or detention for a legitimate police purpose, *regardless of whether the arrest, stop, or detention is lawful*; and
 - (3) The law enforcement officer ~~useds~~ only the amount of physical force that ~~appeareds~~ reasonably necessary.

- (h) *Voluntary i*ntoxication. A person shall be deemed to have consciously disregarded the risk required to prove that the person acted with extreme indifference to human life in paragraphs (a)(3), (a)(4), and (b)(1) of this section if the person is unaware of the risk due to his or her self-induced intoxication, but would have been aware had he or she been sober.

~~(i) Jury Trial.~~

- ~~(1) A defendant charged with a violation or an inchoate violation of subsection (e) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- ~~(2) If the complainant is a law enforcement officer, a defendant charged with a violation or an inchoate violation of subsection (f) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

(j) *Penalties.*

- (1) First degree assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) Second degree assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (3) Third degree assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (4) Fourth degree assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (5) Fifth degree assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (6) Sixth degree assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (k) *Definitions.* The terms “negligently,” “purposely,” and “recklessly,” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “bodily injury,” “complainant,” ~~“court,”~~ “dangerous weapon,” “District official,” ~~“firearm,”~~ ~~“imitation dangerous weapon,”~~ “law enforcement officer,” “protected person,” “public safety employee,” “serious bodily injury,” and “significant bodily injury” have the meanings specified in RCC § 22E-701; and the terms “intoxication” and “self-induced intoxication” have the meanings specified in RCC § 22E-209.

RCC § 22E-1203. Menacing.

- (a) *First degree.* ~~Except as provided in subsection (c) of this section,~~ an actor commits first degree menacing when that actor:
- (1) Knowingly communicates to a complainant who is physically present that the actor immediately will cause a criminal harm to any person involving a bodily injury, a sexual act, a sexual contact, or confinement;
- (2) The communication is made by displaying or using a dangerous weapon or imitation dangerous weapon;
- (3) With intent that the communication be perceived as a serious expression that the actor would cause the harm; and

- (4) In fact, the communication would cause a reasonable person in the complainant's circumstances to believe that the harm would immediately occur.
- (b) *Second degree.* ~~Except as provided in subsection (c) of this section,~~ an actor commits second degree menacing when that actor:
- (1) Knowingly communicates to a complainant who is physically present that the actor immediately will cause a criminal harm to any person involving a bodily injury, a sexual act, a sexual contact, or confinement;
 - (2) With intent that the communication be perceived as a serious expression that the actor would cause the harm; and
 - (3) In fact, the communication would cause a reasonable person in the complainant's circumstances to believe that the harm would immediately occur.
- ~~(c) Exclusions from Liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- ~~(d) Jury Trial. A defendant charged with a violation or an inchoate violation of subsection (b) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (c) *Penalties.*
- (1) First degree menacing is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree menacing is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) *Penalty Enhancements.* In addition to the general penalty enhancements under this title, the penalty classification for this offense is increased by one class when the actor is reckless as to the fact that the complainant is a protected person.
- (d) *Definitions.* The terms “knowingly,” ~~and~~ “intent,” ~~and~~ “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “bodily injury,” ~~“court,”~~ “complainant,” “dangerous weapon,” “imitation dangerous weapon,” “property,” ~~“protected person,”~~ “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

RCC § 22E-1204. Criminal Threats.

- (a) *First degree.* ~~Except as provided in subsection (c) of this section,~~ an actor commits first degree criminal threats when that actor:
- (1) Knowingly communicates to a complainant that, anytime in the future or if any condition is met, the actor will cause a criminal harm to any person involving a bodily injury, a sexual act, a sexual contact, or confinement;
 - (2) With intent that the communication be perceived as a serious expression that the actor would cause the harm; and

- (3) In fact, the communication would cause a reasonable person in the complainant's circumstances to believe that the harm would occur.
- (b) *Second degree.* ~~Except as provided in subsection (c) of this section,~~ an actor commits second degree criminal threats when that actor:
- (1) Knowingly communicates to a complainant that, anytime in the future or if any condition is met, the actor will cause a criminal harm to any natural person involving ~~\$500~~ \$250 or more in loss or damage to property;
 - (2) With intent that the communication be perceived as a serious expression that the actor would cause the harm; and
 - (3) In fact, the communication would cause a reasonable person in the complainant's circumstances to believe that the harm would occur.
- ~~(e) Exclusions from Liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- ~~(d) Jury Trial. A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (c) *Penalties.*
- (1) First degree criminal threats is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree criminal threats is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “bodily injury,” “complainant,” ~~“court,”~~ “property,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

RCC § 22E-1205. Offensive Physical Contact.

- (a) *First ~~D~~egree.* A person commits first degree offensive physical contact when that person:
- (1) Knowingly causes the complainant to come into physical contact with bodily fluid or excrement;
 - (2) ~~Either:~~
 - (A) ~~Reckless as to the fact that the complainant is a protected person;~~
~~or~~
 - (B) ~~With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official;~~
 - (3) With intent that the physical contact be offensive to the complainant; ~~and~~
 - (4) In fact, a reasonable person in the situation of the complainant would regard it as offensive.
- (b) *Second ~~D~~egree.* A person commits second degree offensive physical contact when that person:

- (1) Knowingly:
 - (A) Causes the complainant to come into physical contact with bodily fluid or excrement; or
 - (B) Causes physical contact with the complainant, either:
 - (i) Reckless as to the fact that the complainant is a protected person; or
 - (ii) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official;
 - (2) With intent that the physical contact be offensive to the complainant; and
 - (3) In fact, a reasonable person in the situation of the complainant would regard it as offensive.
- (c) *Third Degree.* A person commits third degree offensive physical contact when that person:
- (1) Knowingly causes physical contact with the complainant;
 - (2) With intent that the physical contact be offensive to the complainant; and
 - (3) In fact, a reasonable person in the situation of the complainant would regard it as offensive.
- (d) *Limitation on Justification and Excuse Defenses to Offensive Physical Contact Against a Law Enforcement Officer.* For prosecutions brought under this section there are no justification or excuse defenses under RCC [§§ 22E-XXX – 22E-XXX] for a person to actively oppose the use of physical force by a law enforcement officer when:
- (1) The person ~~was~~ is reckless as to the fact that the complainant ~~was~~ is a law enforcement officer;
 - (2) In fact, ~~the~~ use of force occurred during an arrest, stop, or detention for a legitimate police purpose, regardless of whether the arrest, stop, or detention is lawful; and
 - (3) The law enforcement officer used only the amount of physical force that appeared reasonably necessary.
- ~~(e) Jury Trial. If the complainant is a law enforcement officer, a defendant charged with a violation or an inchoate violation of subsection (b) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (f) *Penalties.*
- (1) First degree offensive physical contact is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree offensive physical contact is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree offensive physical contact is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.* The terms “intent,” “knowingly,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “complainant,” ~~“court,”~~ and “law enforcement officer,” have the meanings specified in RCC § 22E-701.

Chapter 13. Sexual Assault and Related Provisions.

RCC § 22E-1301. Sexual Assault.

- (a) *First degree.* An actor commits first degree sexual assault when that actor:
- (1) Knowingly ~~engages in a sexual act with the complainant or~~ causes the complainant to engage in or submit to a sexual act;
 - (2) In one or more of the following ways:
 - (A) By using physical force that ~~causes bodily injury to,~~ overcomes, ~~or restrains, or causes bodily injury to the complainant any~~ person;
 - (B) ~~By using a weapon against the complainant;~~
 - (C) By threatening, ~~explicitly or implicitly,~~ to kill, kidnap, or cause bodily injury to any person, or to commit an ~~unwanted~~ sexual act against any person;
 - ~~(i) To kill or kidnap any person;~~
 - ~~(ii) To commit an unwanted sexual act or cause significant bodily injury to any person; or~~
 - (D) By administering or causing to be administered to the complainant, without the complainant's effective consent, a drug, intoxicant, or other substance:
 - (i) With intent to impair the complainant's ability to express unwillingness to engage in the sexual act; and
 - (ii) In fact, the drug, intoxicant, or other substance renders the complainant:
 - (I) Asleep, unconscious, substantially paralyzed, or passing in and out of consciousness;
 - (II) Substantially incapable, ~~mentally or physically,~~ of appraising the nature of the sexual act; or
 - (III) Substantially incapable, ~~mentally or physically,~~ of communicating unwillingness to engage in the sexual act.
- (b) *Second degree.* An actor commits second degree sexual assault when that actor:
- (1) Knowingly ~~engages in a sexual act with the complainant or~~ causes the complainant to engage in or submit to a sexual act;
 - (2) In one or more of the following ways:
 - (A) By a coercive threat, ~~express or implied;~~ or
 - (B) When the complainant is:
 - (i) Asleep, unconscious, paralyzed, or passing in and out of consciousness;
 - (ii) ~~Mentally or physically~~ incapable of appraising the nature of the sexual act ~~or of understanding the right to give or withhold consent to the sexual act, either due to a drug, intoxicant, or other substance, or, due to an intellectual, developmental, or mental disability or mental illness when the actor has no similarly serious disability or illness;~~ or

- (iii) ~~Mentally or physically~~ Incapable of communicating unwillingness to engage in the sexual act.
- (c) *Third degree.* An actor commits third degree sexual assault when that actor:
 - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to sexual contact;
 - (2) In one or more of the following ways:
 - (A) By using physical force that causes bodily injury to, overcomes, or restrains, ~~or causes bodily injury to the complainant~~ any person;
 - (B) ~~By using a weapon against the complainant;~~
 - (C) By threatening, explicitly or implicitly, to kill, kidnap, or cause bodily injury to any person, or to commit an unwanted sexual act against any person;
 - ~~(i) To kill or kidnap any person;~~
 - ~~(ii) To commit an unwanted sexual act or cause significant bodily injury to any person; or~~
 - (D) By administering or causing to be administered to the complainant, without the complainant's effective consent, a drug, intoxicant, or other substance:
 - (i) With intent to impair the complainant's ability to express unwillingness to engage in the sexual contact; and
 - (ii) In fact, the drug, intoxicant, or other substance renders the complainant:
 - (I) Asleep, unconscious, substantially paralyzed, or passing in and out of consciousness;
 - (II) Substantially incapable, ~~mentally or physically,~~ of appraising the nature of the sexual contact; or
 - (III) Substantially incapable, ~~mentally or physically,~~ of communicating unwillingness to engage in the sexual contact.
- (d) *Fourth degree.* An actor commits fourth degree sexual assault when that actor:
 - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to sexual contact;
 - (2) In one or more of the following ways:
 - (A) By a coercive threat, express or implied; or
 - (B) When the complainant is:
 - (i) Asleep, unconscious, paralyzed, or passing in and out of consciousness;
 - (ii) ~~Mentally or physically~~ Incapable of appraising the nature of the sexual contact or of understanding the right to give or withhold consent to the sexual contact, either due to a drug, intoxicant, or other substance, or, due to an intellectual, developmental, or mental disability or mental illness when the actor has no similarly serious disability or illness; or
 - (iii) ~~Mentally or physically~~ Incapable of communicating unwillingness to engage in the sexual contact.

- (e) *Affirmative defenses* ~~*Effective Consent Defense*~~. It is an affirmative defense to liability under this section ~~In addition to any defenses otherwise applicable to the actor's conduct under District law, that, in fact:~~
- (1) The actor has the complainant's effective consent to the actor's conduct, or the actor's reasonable belief~~ves~~ that the actor has the complainant's ~~gave~~ effective consent to the actor's conduct; ~~charged to constitute the offense is an affirmative defense to prosecution under this section, provided that:~~
 - (2) The actor's conduct does not inflict significant bodily injury or serious bodily injury, or involve the use of a dangerous weapon; ~~and~~
 - (3) The actor is not at least 4 years older than a complainant who is under 16 years of age; and
 - (4) The actor is not in a position of trust with or authority over the complainant, is not at least 18 years of age, and is not at least 4 years older than the complainant who is under 18 years of age.
 - (5) ~~At the time of the actor's conduct, none of the following is true:~~
 - (A) ~~The complainant is under 16 years of age and the actor is at least 4 years older than the complainant; or~~
 - (B) ~~The complainant is under 18 years of age and the actor is in a position of trust with or authority over the complainant, at least 18 years of age, and at least 4 years older than the complainant.~~
 - (6) ~~*Burden of Proof*. If any evidence is present at trial of the complainant's effective consent to the actor's conduct or the actor's reasonable belief that the complainant gave effective consent to the actor's conduct, the government must prove the absence of such circumstances beyond a reasonable doubt.~~
- (f) *Penalties*. ~~Subject to the general penalty enhancements in RCC §§ 22E-605–22E-608 and the offense penalty enhancements in subsection (g) of this section:~~
- (1) First degree sexual assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree sexual assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree sexual assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree sexual assault is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) ~~*Offense Penalty Enhancements*~~ *Enhanced penalties*. In addition to ~~any~~ the general penalty enhancements ~~in RCC §§ 22E-605–22E-608~~ under this title, the penalty classification for ~~any gradation of~~ this offense ~~may be~~ is increased ~~in severity~~ by one class when, ~~in addition to the elements of the offense gradation, one or more of the following is proven:~~
 - (A) The actor recklessly caused~~s~~ the sexual act or sexual contact ~~conduct~~ by displaying or using ~~an object that what is, in fact, was~~ a dangerous weapon or imitation dangerous weapon;

- (B) The actor knowingly ~~acted~~^{eds} with one or more accomplices that ~~were~~^{are physically} present at the time of the ~~sexual act or sexual contact offense~~;
- (C) The actor recklessly ~~caused~~^{eds} serious bodily injury to the complainant ~~immediately before, during, or immediately after the sexual act or sexual contact~~^{conduct}; or
- (D) At the time of the ~~sexual act or sexual contact~~:
 - (i) The complainant ~~is~~, in fact, ~~was~~ under 12 years of age and the actor ~~was is, in fact,~~ at least 4 years older than the complainant;
 - (ii) The actor ~~was is~~ reckless as to the fact that the complainant ~~was is~~ under 16 years of age and the actor ~~was is~~, in fact, at least 4 years older than the complainant;
 - (iii) The actor ~~was is~~ reckless as to the fact that the complainant ~~was is~~ under 18 years of age, that the actor ~~was is~~ in a position of trust with or authority over the complainant, and that the actor ~~is~~, in fact, ~~was~~ at least 4 years older than the complainant;
 - ~~(iv) The actor was reckless as to the fact that the complainant was under 18 years of age and the actor was, in fact, 18 years of age or older and at least 4 years older than the complainant;~~
 - (v) The actor ~~was is~~ reckless as to the fact that the complainant ~~was is~~ 65 years of age or older and the actor ~~was is~~, in fact, ~~under the age of 65 years and~~ at least 10 years younger than the complainant; or
 - (vi) The actor ~~was is~~ reckless as to the fact that the complainant ~~was is~~ a vulnerable adult.
- (g) *Definitions.* The terms “intent,” “knowingly,” ~~“reckless,”~~ and “recklessly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “bodily injury,” “complainant,” “dangerous weapon,” “effective consent,” “coercive threat,” “imitation dangerous weapon,”
 - (h)
 - (i)
 - (j)
 - (k)
 - (l)
 - (m) “position of trust with or authority over,” “serious bodily injury,” “significant bodily injury,” “sexual act,” “sexual contact,” and “vulnerable adult” have the meanings specified in RCC § 22E-701.

RCC § 22E-1302. Sexual Abuse of a Minor.

- (a) *First degree.* An actor commits first degree sexual abuse of a minor when that actor:

- (1) Knowingly engages in a sexual act with the complainant or causes the complainant to engage in or submit to a sexual act; and
- (2) In fact:
 - (A) The complainant is under 12 years of age; and
 - (B) The actor is at least 4 years older than the complainant.
- (b) *Second degree.* An actor commits second degree sexual abuse of a minor when that actor:
 - (1) Knowingly engages in a sexual act with the complainant or causes the complainant to engage in or submit to a sexual act; and
 - (2) In fact:
 - (A) The complainant is under 16 years of age; and
 - (B) The actor is at least 4 years older than the complainant.
- (c) *Third degree.* An actor commits third degree sexual abuse of a minor when that actor:
 - (1) Knowingly engages in a sexual act with the complainant or causes the complainant to engage in or submit to a sexual act;
 - (2) While in a position of trust with or authority over the complainant; and
 - (3) In fact:
 - (A) The complainant is under 18 years of age; and
 - (B) The actor is at least 18 years of age and at least 4 years older than the complainant.
- (d) *Fourth degree.* An actor commits fourth degree sexual abuse of a minor when that actor:
 - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to sexual contact; and
 - (2) In fact:
 - (A) The complainant is under 12 years of age; and
 - (B) The actor is at least 4 years older than the complainant.
- (e) *Fifth degree.* An actor commits fifth degree sexual abuse of a minor when that actor:
 - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to sexual contact; and
 - (2) In fact:
 - (A) The complainant is under 16 years of age; and
 - (B) The actor is at least 4 years older than the complainant.
- (f) *Sixth degree.* An actor commits sixth degree sexual abuse of a minor when that person:
 - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to sexual contact;
 - (2) While in a position of trust with or authority over the complainant; and
 - (3) In fact:
 - (A) The complainant is under 18 years of age; and
 - (B) The actor is, in fact, at least 18 years of age and at least 4 years older than the complainant.
- (g) *Affirmative defenses* ~~*Defenses.* In addition to any defenses otherwise applicable to the actor's conduct under District law:~~

- (1) ~~Marriage or Domestic Partnership Defense.~~ It is an affirmative defense to ~~prosecution liability~~ under this section for conduct involving only the actor and the complainant that the actor and the complainant ~~were~~ **are, in fact**, in a marriage or domestic partnership at the time of the ~~offense sexual act or sexual contact~~.
- (2) ~~Reasonable Mistake of Age Defense.~~—It is an affirmative defense to ~~prosecution liability~~ under subsection (b) and subsection (e) **of this section** that, **in fact**:
 - (A) The actor reasonably believed~~s~~ that the complainant ~~was~~ **is** 16 years of age or older at the time of the ~~offense sexual act or sexual contact~~;
 - (B) Such reasonable belief is ~~supported by~~ based on an oral or written statement ~~that the complainant made to the actor by the complainant~~ about the complainant's age; and
 - (C) The complainant ~~is was~~ 14 years of age or older **at the time of the sexual act or sexual contact**.
- (3) It is an affirmative defense to ~~prosecution liability~~ under subsection (c) and subsection (f) **of this section** that, **in fact**:
 - (A) The actor reasonably believed~~s~~ that the complainant ~~was~~ **is** 18 years of age or older at the time of the ~~offense sexual act or sexual contact~~;
 - (B) Such reasonable belief is ~~supported by~~ based on an oral or written statement ~~that the complainant made to the actor by the complainant~~ about the complainant's age; and
 - (C) The complainant ~~is was~~ 16 years of age or older **at the time of the sexual act or sexual contact**.
- (4) ~~Burden of Proof.~~ ~~The actor must prove the affirmative defenses in this subsection by a preponderance of the evidence.~~
- (h) ~~Penalties.~~ ~~Subject to the general penalty enhancements in RCC §§ 22E-605–22E-608:~~
 - (1) First degree sexual abuse of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree sexual abuse of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree sexual abuse of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree sexual abuse of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree sexual abuse of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (6) Sixth degree sexual abuse of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (7) ~~Enhanced penalties.~~ **In addition to the general penalty enhancements under this title:**
 - (A) ~~The penalty classification for any gradation of this offense is increased by one class when the actor:~~

- (i) Recklessly causes the sexual act or sexual contact by displaying or using an object that is, in fact, a dangerous weapon or imitation dangerous weapon;
 - (ii) Knowingly acts with one or more accomplices that are physically present at the time of the sexual act or sexual contact; or
 - (iii) Recklessly causes serious bodily injury to the complainant immediately before, during, or immediately after the sexual act or sexual contact; or
 - (B) The penalty classification for first degree, second degree, fourth degree, and fifth degree of this offense is increased by one class when the actor knows at the time of the sexual act or sexual contact that the actor is in a position of trust with or authority over complainant.
- (i) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “complainant,” “dangerous weapon,” “domestic partnership,” “imitation dangerous weapon,” “position of trust with or authority over,” “serious bodily injury,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

RCC § 22E-1303. ~~Sexual Exploitation of an Adult~~ Sexual Abuse by Exploitation.

- (a) *First degree.* An actor commits first degree ~~sexual exploitation of an adult~~ sexual abuse by exploitation when that actor:
- (1) Knowingly engages in a sexual act with the complainant or causes the complainant to engage in or submit to a sexual act;
 - (2) ~~In one or more of the following ways~~ In one or more of the following situations:
 - (A) The actor is a teacher, counselor, principal, administrator, nurse, coach, or security officer in a secondary school and recklessly disregards that:
 - (i) The complainant:
 - (I) Is an enrolled student in the same secondary school; or
 - (II) Receives services or attends programming at the same secondary school; and
 - (ii) The complainant is under the age of 20 years-;
 - (B) The actor knowingly and falsely represents that he or she is someone else who is personally known to the complainant;
 - (C) The actor is, or purports to be, a healthcare provider, a health professional, or ~~a member of the clergy~~ a religious leader described in D.C. Code § 14-309, and:
 - (i) Falsely represents that the sexual act is for a bona fide medical, therapeutic, or professional purpose;

- (ii) Commits the sexual act during a consultation, examination, treatment, therapy, or other provision of professional services; or
 - (iii) Commits the sexual act while the complainant is a patient or client of the actor, and recklessly disregards that the mental, emotional, or physical condition of the complainant is such that he or she is impaired from declining participation in the sexual act; or
 - (D) The actor knowingly works at a hospital, treatment facility, detention or correctional facility, group home, or other institution housing persons who are not free to leave at will, or transports or is a custodian of persons at such an institution, and recklessly disregards that the complainant is a ward, patient, client, or prisoner at such an institution.
- (b) *Second degree.* An actor commits second degree ~~sexual exploitation of an adult~~ **sexual abuse by exploitation** when that actor:
 - (1) Knowingly **engages in a sexual contact with the complainant or** causes the complainant to engage in or submit to sexual contact;
 - (2) ~~In one or more of the following ways~~ **In one or more of the following situations:**
 - (A) The actor is a teacher, counselor, principal, administrator, nurse, coach, or security officer in a secondary school and recklessly disregards that:
 - (i) The complainant:
 - (I) Is an enrolled student in the same secondary school; or
 - (II) Receives services or attends programming at the same secondary school; and
 - (ii) The complainant is under the age of 20 years-;
 - (B) The actor knowingly and falsely represents that he or she is someone else who is personally known to the complainant.
 - (C) The actor is, or purports to be, a healthcare provider, a health professional, or ~~a member of the clergy a religious leader described in D.C. Code § 14-309~~, and:
 - (i) Falsely represents that the sexual contact is for a bona fide **medical, therapeutic, or** professional purpose;
 - (ii) Commits the sexual contact during a consultation, examination, treatment, therapy, or other provision of professional services; or
 - (iii) Commits the sexual contact while the complainant is a patient or client of the actor, and recklessly disregards that the mental, emotional, or physical condition of the complainant is such that he or she is impaired from declining participation in the sexual contact; or
 - (D) The actor knowingly works at a hospital, treatment facility, detention or correctional facility, group home, or other institution

housing persons who are not free to leave at will, or transports or is a custodian of persons at such an institution, and recklessly disregards that the complainant is a ward, patient, client, or prisoner at such an institution.

- (c) ~~Marriage or Domestic Partnership Defense Affirmative defenses. In addition to any defenses otherwise applicable to the actor's conduct under District law, it~~ is an affirmative defense to ~~prosecution liability~~ under this section, ~~which the actor must prove by a preponderance of the evidence,~~ that the actor and the complainant ~~were are, in fact,~~ in a marriage or domestic partnership at the time of the ~~offense~~ sexual act or sexual contact.
- (d) ~~Penalties. Subject to the general penalty enhancements in RCC §§ 22E-605–22E-608:~~
- (1) First degree sexual exploitation of an adult is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree sexual exploitation of an adult is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* In this section, the terms "knowingly" and "recklessly disregards" have the meaning specified in RCC § 22E-206; and the terms "actor," "complainant," "domestic partnership," "health professional," "healthcare provider," "sexual act," and "sexual contact," have the meanings specified in RCC § 22E-701.

RCC § 22E-1304. Sexually Suggestive Conduct with a Minor.

- (a) *Offense.* An actor commits sexually suggestive ~~contact~~ conduct with a minor when that actor:
- (1) Is, in fact, at least 18 years of age and at least 4 years older than the complainant; and:
 - (A) The actor is reckless as to the fact that the complainant is under 16 years of age; or
 - (B) The actor:
 - (i) Is reckless as to the fact that the complainant is under 18 years of age; and
 - (ii) Knows that the actor is in a position of trust with or authority over the complainant; and
 - (2) The actor:
 - (A) Purposely engages in:
 - (i) A sexual act that is visible to the complainant;
 - (ii) A sexual contact that is visible to the complainant; or
 - (iii) A sexual or sexualized display of the genitals, pubic area, or anus that is visible to the complainant;
 - (B) Knowingly:
 - (i) Engages in one of the following with the complainant or causes the complainant to engage in or submit to one of the following:

- (I) Touching or kissing any person, either directly or through the clothing; or
- (II) Removing clothing from any person;
- (ii) With intent to cause the sexual arousal or sexual gratification of any person; or
- (C) Knowingly engages in a sexual act or sexual contact with the complainant or causes the complainant to engage in or submit to a sexual act or sexual contact.
 - ~~Touches the complainant inside his or her clothing with intent to cause the sexual arousal or sexual gratification of any person;~~
 - ~~Touches the complainant inside or outside his or her clothing close to the genitalia, anus, breast, or buttocks with intent to cause the sexual arousal or sexual gratification of any person;~~
 - ~~Places the actor's tongue in the mouth of the complainant with intent to cause the sexual arousal or sexual gratification of any person; or~~
 - ~~Touches the actor's genitalia or that of a third person in the sight of the complainant with intent that the complainant's presence cause the sexual arousal or sexual gratification of any person; and~~
- ~~(3) In fact, is at least 18 years of age and at least 4 years older than the complainant; _____ and:~~
 - ~~_____ (A) Is reckless as to the fact that the complainant is under 16 years of age;~~
 - ~~or~~
 - ~~(B) Is reckless as to the fact that the complainant is under 18 years of age and the actor knows that he or she is in a position of trust with or authority over the complainant.~~
- (b) ~~Marriage or Domestic Partnership Affirmative Defenses.~~ In addition to any defenses otherwise applicable to the actor's conduct under District law, ~~It is an affirmative defense to prosecution liability under this section for conduct involving only the actor and the complainant, which the actor must prove by a preponderance of the evidence, that the actor and the complainant were are, in fact, in a marriage or domestic partnership at the time of the offense prohibited conduct.~~
- (c) *Penalties.* ~~Subject to the general penalty enhancements in RCC §§ 22E-605—22E-608, s~~Sexually suggestive contact with a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “intent,” “knowingly,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “complainant,” “domestic partnership,” “position of trust with or authority over,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.
- ~~(e) Jury Trial. A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

RCC § 22E-1305. Enticing a Minor Into Sexual Conduct.

- (a) *Offense.* An actor commits enticing a minor into sexual conduct when that actor:
- (1) Knowingly ~~commands, requests, or tries to persuade~~ ~~Persuades or entices, or attempts to persuade or entice,~~ the complainant to engage in or submit to a sexual act or sexual contact; ~~or~~
~~(B) Persuades or entices, or attempts to persuade or entice, the complainant to go to another location and plans to cause the complainant to engage in or submit to a sexual act or sexual contact at that location; and~~
 - (2) The actor ~~is, in fact, is~~ at least 18 years of age ~~and at least four years older than the complainant, and:~~
 - (A) The actor: ~~is reckless as to the fact that the complainant is under 16 years of age; or~~
 - (i) ~~Was reckless as to the fact that the complainant is under 16 years of age; and~~
 - (ii) ~~In fact, is at least four years older than the complainant;~~
 - (B) The actor:
 - (i) ~~Was Is~~ reckless as to the fact that the complainant is under 18 years of age; ~~and~~
 - (ii) Knows that the actor is in a position of trust with or authority over the complainant; ~~and or~~
 - (iii) ~~In fact, is at least four years older than the complainant; or~~
 - (3) The actor is, in fact, at least 18 years of age and at least four years older than the purported age of the complainant, and:
 - (A) ~~The complainant is a law enforcement officer who purports to be a person under 16 years of age; and~~
 - (B) The actor is reckless as to the fact that the purported age of the complainant is under 16 years of age.
 - i. ~~The complainant:~~
 1. ~~In fact, is a law enforcement officer who purports to be a person under 16 years of age;~~
 2. ~~The actor was reckless as to the fact that the complainant purports to be a person under 16 years of age; and~~
 3. ~~In fact, the actor is at least 4 years older than the purported age of the complainant.~~
- (b) ~~Marriage or Domestic Partnership Affirmative Defenses.~~ ~~In addition to any defenses otherwise applicable to the actor's conduct under District law, i~~It is an affirmative defense to ~~prosecution~~ liability under this section for conduct involving only the actor and the complainant, ~~which the actor must prove by a preponderance of the evidence;~~ that the actor and the complainant ~~were~~are, in fact, in a marriage or domestic partnership at the time of the ~~offense~~ sexual act or sexual contact.
- (c) ~~Penalties.~~ ~~Subject to the general penalty enhancements in RCC §§ 22E-605–22E-608, e~~Enticing a minor into sexual conduct is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (d) *Definitions.* The terms “~~knows,~~” “knowingly,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “complainant,” “domestic partnership,” “law enforcement officer,” “position of trust with or authority over,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

RCC § 22E-1306. Arranging for Sexual Conduct with a Minor.

- (a) *Offense.* An actor commits arranging for sexual conduct with a minor when that actor:
- (1) Knowingly:
 - (A) ~~As a person with a responsibility under civil law for the health, welfare, or supervision of the complainant;~~
 - (B) ~~Gives effective consent for the complainant to engage in or submit to a sexual act or sexual contact; and~~
 - (2) Recklessly disregards the fact that the complainant is under the age of 18 years.
 - ~~(3) The actor and any third person, in fact, are at least 18 years of age and at least 4 years older than the complainant; and~~
 - ~~(A) The actor was reckless as to the fact that the complainant is under 16 years of age; or~~
 - ~~(B) The actor:~~
 - ~~(i) Was reckless as to the fact that the complainant is under 18 years of age; and~~
 - ~~(ii) Knows that the actor is in a position of trust with or authority over the complainant; or~~
 - ~~(4) The actor and any third person, in fact, are at least 18 years of age and at least 4 years older than the purported age of the complainant; and the complainant:~~
 - ~~(A) In fact, is a law enforcement officer who purports to be a person under 16 years of age; and~~
 - ~~(B) The actor was reckless as to the fact that the complainant purports to be a person under 16 years of age.~~
- (b) *Penalties.* ~~Subject to the general penalty enhancements in RCC §§ 22E-605–22E-608,~~ Arranging for sexual conduct with a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The terms “~~knows,~~” “knowingly,” and “recklessly disregards” have the meanings specified in RCC § 22E-206; ~~the term “in fact” has the meaning specified in RCC § 22E-207;~~ and the terms “actor,” “complainant,” “~~law enforcement officer,~~” “~~position of trust with or authority over,~~” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

RCC § 22E-1307. Nonconsensual Sexual Conduct.

- (a) *First degree.* An actor commits first degree nonconsensual sexual conduct when that actor:
- (1) ~~recklessly~~ **Knowingly** engages in a sexual act with the complainant or causes the complainant to engage in or submit to a sexual act;
 - (2) **Reckless as to the fact that the actor lacks** the complainant's effective consent.
- (b) *Second degree.* An actor commits second degree nonconsensual sexual contact when that actor:
- (1) ~~Recklessly~~ **Knowingly** engages in a sexual contact with the complainant or causes the complainant to engage in or submit to sexual contact;
 - (2) **Reckless as to the fact that the actor lacks** the complainant's effective consent.
- (c) *Exclusions from liability.* An actor ~~shall not be subject to prosecution~~ **does not commit an offense** under this section for deception that induces the complainant to consent to the sexual act or sexual contact; ~~however, an actor may be subject to prosecution under this section for deception as to the nature of the sexual act or sexual contact.~~
- (d) *Penalties.* ~~Subject to the general penalty enhancements in RCC §§ 22E-605–22E-608:~~
- (1) First degree nonconsensual sexual conduct of an adult is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree nonconsensual sexual conduct of an adult is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* The terms “**knowingly**” and “**recklessly**” ~~have~~ **have** the meanings specified in RCC § 22E-206; the terms “actor,” “complainant,” “deception,” “**coercive threat**,” “**effective** consent,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.
- (f) *Jury Trial.* ~~A defendant charged with a violation or an inchoate violation of subsection (b) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

RCC § 22E-1308. Limitations on Liability for RCC Chapter 13 Offenses.

Notwithstanding any other provision of law, a person under the age of 12 is not subject to liability for offenses in this subchapter other than first degree sexual assault, pursuant to RCC § 22E-1301(a), or third degree sexual assault, pursuant to RCC § 22E-1301(c).

RCC § 22E-1309. Duty to Report a Sex Crime Involving a Person Under 16 Years of Age.

- (a) *Duty to* ~~R~~**report** ~~a~~ ~~S~~**sex** ~~C~~**crime** ~~i~~**nvolving** ~~a~~ ~~P~~**person** ~~U~~**nder** ~~16~~ ~~Y~~**ears** ~~of~~ ~~A~~**age.** ~~Except as provided in subsection (b), a~~ **A** person 18 years of age or older who is

aware of a substantial risk that a person under 16 years of age is being, or has been subjected to, a predicate crime shall immediately report such information or belief in a call to 911, a report to the Child and Family Services Agency, or a report to the Metropolitan Police Department.

- (b) *Exclusions from ~~D~~duty to ~~R~~report. ~~The following persons~~*
- (1) *A person does not have a duty to report a predicate crime involving a person under 16 years of age ~~per~~ under subsection (a) of this section when that person is:*
- (A) A person subjected to a predicate crime by the same person alleged to have committed a predicate crime against the person under 16 years of age;
- (B) A lawyer or a person employed by a lawyer when the lawyer or employee is providing representation in a criminal, civil, or delinquency matter, and the information or basis for the belief arises solely in the course of that representation.
- (C) *A religious leader described in D.C. Code § 14-309 ~~priest, clergyman, rabbi, or other duly appointed, licensed, ordained, or consecrated minister of a given religion in the District of Columbia, or a duly accredited practitioner of Christian Science in the District of Columbia,~~ when the information or basis for the belief is the result of a confession or penitential communication made by a penitent directly to the minister if:*
- (i) The penitent made the confession or penitential communication in confidence;
- (ii) The confession or penitential communication was made expressly for a spiritual or religious purpose;
- (iii) The penitent made the confession or penitential communication to the minister in the minister's professional capacity; and
- (iv) The confession or penitential communication was made in the course of discipline enjoined by the church or other religious body to which the minister belongs.
- (2) *No legal privilege, except the privileges set forth in subsection (b) of this section, shall apply to the duty to report in subsection (a) of this section.*
- (c) *Other ~~D~~duties to ~~R~~report. This section should not be construed as altering the special duty to report by persons specified in D.C. Code § 4-1321.02(b).*
- (d) *Immunity for ~~G~~good ~~F~~faith ~~R~~report of a ~~S~~sex ~~C~~crime ~~I~~nvolving a ~~P~~person ~~U~~nder 16 ~~Y~~ears of ~~A~~ge.*
- (1) Any person who in good faith makes a report pursuant to this section shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report or any participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the person under the 16 years of age who is the subject of the report, or resulting from the report, good faith shall be presumed unless rebutted.

- (2) Any person who makes a good-faith report pursuant to this section and, as a result thereof, is discharged from his or her employment or in any other manner is discriminated against with respect to compensation, hire, tenure, or terms, conditions, or privileges of employment, may commence a civil action for appropriate relief. If the ~~court~~ Superior Court for the District of Columbia finds that the person was required to report pursuant to this section, in good faith made a report, and was discharged or discriminated against as a result, the ~~court~~ Superior Court for the District of Columbia may issue an order granting appropriate relief, including reinstatement with back pay. The District may intervene in any action commenced under this subsection.
- (g) *Definitions.* ~~The term “court” has the meaning specified in RCC § 22E-701; and, i~~In this section, the term “predicate crime” means any conduct that is a violation of:
- (1) Sex Trafficking of Minors under RCC § 22E-1605 ~~[Sex Trafficking of Minors]~~, Trafficking in Commercial Sex under RCC § 22E-1604, or Commercial Sex with a Trafficked Person under RCC § 22E-1608. ;
 - (2) D.C. Code § 22-2704 [Abducting or enticing child from his or her home for purposes of prostitution; harboring such child];
 - (3) Chapter 13 of this Subtitle; or
 - (4) ~~D.C. Code § 22-3102 [Sexual Performance Using Minors]~~ Creating or Trafficking an Obscene Image of a Minor under RCC § 22E-1807, Possession of an Obscene Image of a Minor under RCC § 22E-1808, Arranging a Live Sexual Performance of a Minor under RCC § 22E-1809, or Attending or Viewing a Live Sexual Performance of a Minor under RCC § 22E-1810.

RCC § 22E-1310. Civil Infraction for Failure to Report a Sex Crime Involving a Person Under 16 Years of Age.

- (a) *Infraction.* A person commits the civil infraction of failure to report a sex crime involving a person under 16 years of age when that person:
- (1) Knows that he or she has a duty to report a predicate crime involving a person under 16 years of age pursuant to RCC § 22E-1309(a); and
 - (2) Fails to carry out his or her duty to report a predicate crime involving a person under 16 years of age pursuant to RCC § 22E-1309(a).
- (b) *Defenses ~~for Survivors of Domestic Violence.~~* ~~In addition to any defenses otherwise applicable to the person’s conduct under District law, i~~It is a defense to ~~the civil infraction liability in~~ under subsection (a) of this section that the person fails to report a predicate crime involving a person under 16 years of age pursuant to RCC § 22E-1309(a) because he or she is a survivor of intimate partner violence, as defined in D.C. Code § 16-1001(7), or intrafamily violence, as defined in D.C. Code § 16-1001(9).
- (c) *Penalties.* Failure to report a sex crime involving a person under 16 years of age is a civil infraction subject to a fine of \$300.

- (d) *Judicial ~~V~~venue*. Adjudication of an infraction per this section shall occur in the Office of Administrative Hearings pursuant to D.C. Code § 2-1831.03(b-6).
- (e) *Definitions*. The term “knows” has the meaning specified in RCC § 22E-206.

RCC § 22E-1311. Admission of Evidence in Sexual Assault and Related Cases.

- (a) *Reputation or ~~O~~pinion ~~E~~evidence of ~~C~~complainant's ~~P~~past ~~S~~sexual ~~B~~behavior ~~I~~inadmissible*. Notwithstanding any other provision of law, in a criminal case under RCC Chapter 13, reputation or opinion evidence of the past sexual behavior of the complainant is not admissible.
- (b) *Admissibility of ~~O~~ther ~~E~~evidence of ~~C~~complainant's ~~P~~past ~~S~~sexual ~~B~~behavior*.
 - (1) Notwithstanding any other provision of law, in a criminal case for an offense under RCC Chapter 13, evidence of a complainant's past sexual behavior, other than reputation or opinion evidence, is not admissible, unless such evidence is:
 - (A) Admitted in accordance with paragraphs (2), (3), or (4) of this subsection and is constitutionally required to be admitted; or
 - (B) Admitted in accordance with paragraphs (2), (3), or (4) of this subsection and is evidence of:
 - (i) Past sexual behavior with persons other than the actor, offered by the actor upon the issue of whether the actor was or was not, with respect to the complainant, the source of semen or bodily injury; or
 - (ii) Past sexual behavior with the actor where effective consent of the complainant is at issue and is offered by the actor upon the issue of whether the complainant consented to the sexual behavior that is the basis of the criminal charge.
 - (2) If the actor intends to offer under paragraph (1) of this subsection, evidence of specific instances of the complainant's past sexual behavior, the actor shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the ~~court~~ **Superior Court of the District of Columbia** may allow the motion to be made at a later date, including during trial, if the ~~court~~ **Superior Court of the District of Columbia** determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph, and the accompanying offer of proof, shall be filed under seal and served on all other parties and on the complainant.
 - (3) The motion described in paragraph (2) of this subsection shall be accompanied by a written offer of proof. If the ~~court~~ **Superior Court of the District of Columbia** determines that the offer of proof contains evidence described in paragraph (1) of this subsection, the ~~court~~ **Superior Court of the District of Columbia** shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call

witnesses, including the complainant, and offer relevant evidence. If the relevancy of the evidence which the actor seeks to offer in the trial depends upon the fulfillment of a condition of fact, the ~~court~~ **Superior Court of the District of Columbia**, at the hearing in chambers, or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

- (4) If the ~~court~~ **Superior Court of the District of Columbia** determines on the basis of the hearing described in paragraph (3) of this subsection that the evidence which the actor seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the ~~court~~ **Superior Court of the District of Columbia** specifies evidence which may be offered and areas with respect to which the complainant may be examined or cross-examined.
- (c) *Prompt ~~R~~reporting.* Evidence of delay in reporting an offense under RCC Chapter 13 to a public authority shall not raise any presumption concerning the credibility or veracity of a charge under RCC Chapter 13.
- (d) *Privilege ~~I~~napplicable for ~~S~~spouses or ~~D~~domestic ~~P~~partners.* Laws attaching a privilege against disclosure of communications between spouses or domestic partners are inapplicable in prosecutions under RCC Chapter 13 where the actor is or was married to the complainant, or is or was a domestic partner of the complainant, or where the complainant is a person under 16 years of age.
- (e) *Definitions.* The terms “actor,” “bodily injury,” “complainant,” ~~“court,”~~ “domestic partner,” and “effective consent” have the meanings specified in RCC § 22E-701; and, in this section, the term “past sexual behavior” means sexual behavior **other than the sexual behavior** with respect to which an offense under RCC Chapter 13 is alleged.

RCC § 22E-1312. Incest.

- (a) *Offense.* An actor commits incest when that actor:
- (1) In fact, is at least 16 years of age; and
 - (2) Knowingly engages in a sexual act with a person who is related, ~~either legitimately or illegitimately,~~ as a:
 - (A) Parent, grandparent, or great-grandparent, by blood or adoption;
 - (B) Child, grandchild, or great-grandchild, by blood or adoption;
 - (C) ~~Brother, sister~~ **A sibling, by blood or adoption, or a half-sibling by blood, or a step-sibling while the marriage creating the relationship exists half-brother, or half-sister, or brother or sister by adoption;**
 - (D) ~~Aunt, uncle, nephew, or niece~~ **A parent’s sibling or a sibling’s child by blood;**
 - (E) **A step-sibling, while the marriage creating the relationship exists;**

- (F) A stepchild or step-grandchild, while the marriage creating the relationship exists; or
- (G) A stepparent or step-grandparent, while the marriage creating the relationship exists.
- (b) *Penalties*. Incest is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions*. The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor” and “sexual act” have the meanings specified in RCC § 22E-701.

Chapter 14. Kidnapping, Criminal Restraint, and Blackmail.

RCC § 22E-1401. Kidnapping.

- (a) *Aggravated Kidnapping*. Except as specified in subsection (c), a person commits aggravated kidnapping when that person:
 - (1) Knowingly and substantially confines or moves the complainant; and
 - (2) Does so:
 - (A) When the actor is, in fact, 18 years or older, reckless as to the fact that the complainant is under 12 years of age and that a person with legal authority over the complainant would not give effective consent to the confinement or movement; or
 - (B) Without the effective consent of the complainant, and:
 - (i) Reckless as to the fact that the complainant is a protected person; ~~or~~
 - (ii) With the purpose of harming the complainant because of the complainant’s status as a law enforcement officer, public safety employee, or District official; or
 - (iii) By knowingly displaying or using what is, in fact, a dangerous weapon or, in fact, an imitation dangerous weapon.
 - (3) With intent to:
 - (A) Hold the complainant for ransom or reward;
 - (B) Use the complainant as a shield or hostage;
 - (C) Facilitate the commission of any felony or flight thereafter;
 - (D) Inflict bodily injury upon the complainant;
 - (E) Commit a sexual offense defined in Chapter 13 of this Title against the complainant;
 - (F) Cause any person to believe that the complainant will not be released without suffering significant bodily injury, or a sex offense defined in Chapter 13 of this Title; or
 - (G) Permanently deprive a person with legal authority over the complainant of custody of the complainant.
- (b) *Kidnapping*. Except as specified in subsection (c), a person commits kidnapping when that person:
 - (1) Knowingly and substantially confines or moves the complainant;

- (2) Does so:
 - (A) Without the effective consent of the complainant; ~~or~~
 - (B) With recklessness as to the fact that the complainant is an incapacitated individual and that a person with legal authority over the complainant would not give effective consent to the confinement or movement; or
 - (C) When the actor is, in fact, 18 years or older, was reckless as to the fact that the complainant is under 16 years of age, four years younger than the actor, and that a person with legal authority over the complainant would not give effective consent to the confinement or movement.
- (3) With intent to:
 - (A) Hold the complainant for ransom or reward;
 - (B) Use the complainant as a shield or hostage;
 - (C) Facilitate the commission of any felony or flight thereafter;
 - (D) Inflict bodily injury upon the complainant;
 - (E) Commit a sexual offense defined in Chapter 13 of this Title against the complainant;
 - (F) Cause any person to believe that the complainant will not be released without suffering significant bodily injury, or a sex offense defined in Chapter 13 of this Title; or
 - (G) Permanently deprive a person with legal authority over the complainant of custody of the complainant.
- (c) *Exclusions to Liability for Close Relatives With Intent to Assume Responsibility for Minor.* A person does not commit ~~aggravated kidnapping or kidnapping an offense~~ under subparagraphs (a)(3)(G) or (b)(3)(G), when the person ~~is a close relative of the complainant, acted with intent to assume full responsibility for the care and supervision of the complainant, and did not cause bodily injury or threaten to cause bodily injury to the complainant.:~~
- (1) Is either:
 - (A) A close relative of the complainant who acts with intent that to assume full responsibility for the care and supervision of the complainant; or
 - (B) A person who reasonably believes he or she is acting at the direction of a close relative who acts with intent that the close relative will assume full responsibility for the care and supervision of the complainant; and
- (2) ~~Does not cause or threaten to cause bodily injury to the complainant, or does not cause or threaten to cause the complainant to engage in a sexual contact or sexual act.~~
- (d) *Penalties.*
 - (1) Aggravated kidnapping is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Kidnapping is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(e) *Multiple Convictions for Related Offenses.* A person may be found guilty of aggravated kidnapping or kidnapping and another offense when the confinement or movement was incidental to commission of the other offense. However, consistent with RCC § 22E-214, no person may be subject to a conviction for aggravated kidnapping or kidnapping and another offense when the confinement or movement was incidental to commission of the other offense after:

- (1) The time for appeal has expired; or
- (2) The ~~appeal of the judgment of conviction has been decided~~ ~~judgment appealed from has been affirmed.~~

(f) *Definitions.* In this section, the terms “intent,” “knowingly,” “purpose,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “bodily injury,” “close relative,” “consent,” “deception,” “effective consent,” ~~“person,” and “relative”~~ ~~have the meanings specified in RCC § 22E-901~~ “incapacitated individual,” and “person,” ~~and “relative”~~ have the meanings specified in RCC § 22E-~~901~~701; ~~The term “incapacitated individual” has the meaning specified in D.C. Code § 21-2011.~~

RCC § 22E-1402. Criminal Restraint.

(a) *Aggravated Criminal Restraint.* Except as provided in subsection (c), an actor commits aggravated criminal restraint when that actor:

- (1) Knowingly and substantially confines or moves the complainant; and
- (2) Does so:
 - (A) When the actor is, in fact, 18 years or older, reckless as to the fact that the complainant is under 12 years of age and that a person with legal authority over the complainant would not give effective consent to the confinement or movement; or
 - (B) Without the effective consent of the complainant; and
 - (i) Reckless as to the fact that the complainant is a protected person;
 - (ii) With the purpose of harming the complainant because of the complainant’s status as a law enforcement officer, public safety employee, or District official; or
 - (iii) By knowingly displaying or using what is, in fact, a dangerous weapon or, in fact, an imitation dangerous weapon.

(b) *Criminal Restraint.* Except as specified in subsection (c), an actor commits criminal restraint when that actor:

- (1) Knowingly and substantially confines or moves the complainant; and
- (2) Does so:
 - (A) Without the effective consent of the complainant;
 - (B) With recklessness as to the fact that that the complainant is an incapacitated individual and that a person with legal authority over the complainant would not give effective consent to the confinement or movement; or

- (C) When the actor is, in fact, 18 years or older, reckless as to the fact that the complainant is under 16 years of age, four years younger than the actor, and that a person with legal authority over the complainant would not give effective consent to the confinement or movement.

(c) *Exclusions to Liability.*

- (1) *Deception Without Intent to Use Force If Deception Fails.* An actor ~~is not guilty of aggravated criminal restraint or criminal restraint~~ does not commit an offense under this section when the actor lacks effective consent under paragraphs (a)(2) or (b)(2) solely because of deception by the actor, unless, in addition, the actor confined or moved the complainant with intent to proceed by the infliction of bodily injury or an explicit or implicit coercive threat if the deception should fail.

- (2) *Parents, Close Relatives, and Guardians Acting With Intent to Assume Responsibility for a Minor.* ~~An actor is not guilty of aggravated criminal restraint or criminal restraint~~ An actor does not commit an offense under this section with respect to a complainant under 18 years of age when the actor is:

- (A) A person with legal authority over the complainant; or

- (B) A close relative or a former legal guardian with authority to control the complainant's freedom of movement who:

- (i) Acts with intent to assume full responsibility for the care and supervision of the complainant; and

- (ii) Does not cause bodily injury or use an explicit or implicit coercive threat; or

- (C) A person who reasonably believes he or she is acting at the direction of a close relative who:

- (i) Acts with intent that the close relative will assume full responsibility for the care and supervision of the complainant; and

- (ii) Does not cause bodily injury or use an explicit or implicit coercive threat.

(d) *Penalties.*

- (1) Aggravated criminal restraint is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (2) Criminal restraint is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (e) *Multiple Convictions for Related Offenses.* A person may be found guilty of aggravated criminal restraint or criminal restraint and another offense when the confinement or movement was incidental to commission of the other offense. However, consistent with RCC § 22E-214, no person may be subject to a conviction for aggravated criminal restraint or criminal restraint and another offense when the confinement or movement was incidental to commission of the other offense after:

- (1) The time for appeal has expired; or

- (2) ~~The judgment appealed from has been affirmed. The appeal of the judgment of conviction has been decided.~~
- (f) *Definitions.* In this section the terms “knowingly,” “purpose,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “close relative,” “complainant,” “dangerous weapon,” “District official,” “imitation dangerous weapon,” **“incapacitated individual,”** “law enforcement officer,” “person with legal authority over the complainant,” “protected person,” and “public safety employee” have the meanings specified in RCC § 22E-701. ~~The term “incapacitated individual” has the meaning specified in D.C. Code § 21-2011.~~

RCC § 22E-1403. Blackmail.

- (a) *Offense.* A person commits blackmail when that person:
- (1) Purposely causes another person to do or refrain from doing any act,
 - (2) By threatening that any person will:
 - ~~(A) Engage in conduct that, in fact, constitutes:~~
 - ~~(i) An offense against persons as defined in subtitle II of Title 22E; or~~
 - ~~(ii) A property offense as defined in subtitle III of Title 22E;~~
 - (B) Take or withhold action as an official, or cause an official to take or withhold action;
 - (C) Accuse another person of a crime;
 - (D) Expose a secret, publicize an asserted fact, or distribute a photograph, video or audio recording, regardless of the truth or authenticity of the secret, fact, or item, that tends to subject another person to, or perpetuate:
 - (i) Hatred, contempt, ridicule, or other significant injury to personal reputation; or
 - (ii) Significant injury to credit or business reputation;
 - (E) **Significantly** ~~h~~impair the reputation of a deceased person;
 - (F) Notify a federal, state, or local government agency or official of, or publicize, another person’s immigration or citizenship status;
 - (G) Restrict a person’s access to a controlled substance that the person owns, or restrict a person’s access to prescription medication that the person owns;
 - ~~(H) Engage in conduct that, in fact, constitutes:~~
 - ~~(i) An offense against persons as defined in subtitle II of Title 22E; or~~
 - ~~(ii) A property offense as defined in subtitle III of Title 22E.~~
- (b) *Exclusion to Liability.*
- (1) An actor ~~shall not be subject to prosecution~~ does not commit an offense under subparagraph (a)(2)(D) for threats of ~~ordinary and~~ legal employment or business actions.
 - (2) An actor ~~shall not be subject to prosecution~~ does not commit an offense under this section for causing a person to do any of the following:

- (A) Transfer, use, give control over, or consent to damage property;
 - (B) Remain in or move to a location; or
 - (C) Give consent for a person to enter or remain in a location.
- (c) *Defense.*
- (1) It is a defense to prosecution under subparagraphs (a)(2)(B), (C), ~~or~~ (D), (E), or (F) that:
 - (A) The actor believed the threatened official action to be justified, or the accusation, secret, or assertion to be true, or that the photograph, video, or audio recording is authentic, and
 - (B) The actor's purpose was to compel the other person to:
 - (i) Desist or refrain from criminal or tortious activity or behavior harmful to any person's physical or mental health,
 - (ii) ~~Take reasonable action to correct~~ Act or refrain from acting in a manner reasonably related to the wrong that is the subject of the accusation, assertion, invocation of official action, or photograph, video or audio recording; or
 - (iii) Refrain from taking any action or responsibility for which the actor believes the other unqualified.
- ~~(2) Burden of Proof for Defense. If any evidence of the defense under subparagraph (c)(1) is present at trial, the government must prove the absence of all requirements of the defense beyond a reasonable doubt.~~
- (d) *Penalties.* Blackmail is a Class [X] offense, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- ~~(e)~~ *Definitions.* The terms "intent" and "purposely" have the meaning specified in RCC § 22E-206; the term and "property" has the meaning specified in RCC § 22E-701; and the terms "controlled substance" ~~and "consent"~~ ~~has~~ ~~es~~ the meaning specified in D.C. Code § 48-901.02.

Chapter 15. Abuse and Neglect of Vulnerable Persons.

RCC § 22E-1501. Criminal Abuse of a Minor.

- (a) *First ~~D~~egree.* A person commits first degree criminal abuse of a minor when that person:
- (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is under 18 years of age;
 - (2) Either:
 - (A) Purposely causes serious mental injury to the complainant; or
 - (B) Recklessly causes serious bodily injury to the complainant.
- (b) *Second ~~D~~egree.* A person commits second degree criminal abuse of a minor when that person:
- (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is under 18 years of age;
 - (2) Either:

- (A) Causes serious mental injury to the complainant; or
 - (B) Causes significant bodily injury to the complainant.
- (c) *Third ~~D~~egree.* A person commits third degree criminal abuse of a minor when that person:
 - (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is under 18 years of age;
 - (2) ~~Engages in 1 one of the following:~~ In fact, commits against the complainant: ~~stalking under RCC § 22E-1801; sixth degree assault under RCC § 22E-1202(f); menacing under RCC § 22E-1203; criminal threats under RCC § 22E-1204; criminal restraint under RCC § 22E-1404; or first degree~~ offensive physical contact under RCC § 22E-1205(a); ~~criminal restraint under RCC § 22E-1404; stalking under RCC § 22E-1801; or electronic stalking under RCC § 22E-1802 against the complainant.;~~
 - (A) ~~Purposely causes significant emotional distress by confining the complainant; or~~
 - (B) ~~Recklessly causes bodily injury to the complainant.~~
- (d) *Penalties.*
 - (1) First degree criminal abuse of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree criminal abuse of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree criminal abuse of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* The terms “purposely” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “bodily injury,” “complainant,” “serious bodily injury,” “serious mental injury,” ~~and “significant bodily injury,” and “significant emotional distress”~~ have the meanings specified in RCC § 22E-701.

RCC § 22E-1502. Criminal Neglect of a Minor.

- (b) *First ~~D~~egree.* ~~Except as provided in subsection (d) of this section, a~~ A person commits first degree criminal neglect of a minor when that person:
 - (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is under 18 years of age;
 - (2) Created, or failed to mitigate or remedy, a substantial risk that the complainant would experience serious bodily injury or death.
- (c) *Second ~~D~~egree.* ~~Except as provided in subsection (d) of this section, a~~ A person commits second degree criminal neglect of a minor when that person:
 - (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is under 18 years of age;
 - (2) Created, or failed to mitigate or remedy, a substantial risk that the complainant would experience:
 - (A) Significant bodily injury; or

- (B) Serious mental injury.
- (d) *Third Degree.* ~~Except as provided in subsection (d) of this section, a~~ A person commits third degree criminal neglect of a minor when that person:
 - (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is under 18 years of age;
 - (2) Either:
 - (A) Knowingly leaves the complainant in any place with intent to abandon the complainant; or
 - (B) Recklessly fails to make a reasonable effort to provide food, clothing, shelter, supervision, medical services, medicine, or other items or care essential for the physical health, mental health, or safety of the complainant.
- (e) *Exclusions from Liability.* ~~No person shall be guilty criminal neglect of a minor~~ A person does not commit an offense under this section for ~~the~~ surrendering of a newborn child in accordance with D.C. Code § 4-1451.01 et seq.
- (f) *Penalties.*
 - (1) First degree criminal neglect of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree criminal neglect of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree criminal neglect of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.* The terms “intent,” “knowingly,” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “complainant,” “serious bodily injury,” “serious mental injury,” and “significant bodily injury,” have the meanings specified in RCC § 22E-701.
- ~~(h) *Jury Trial.* A defendant charged with a violation or an inchoate violation of subsection (e) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

RCC § 22E-1503. Criminal Abuse of a Vulnerable Adult or Elderly Person.

- (a) *First Degree.* A person commits first degree criminal abuse of a vulnerable adult or elderly person when that person:
 - (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is a vulnerable adult or elderly person;
 - (2) Either:
 - (A) Purposely causes serious mental injury to the complainant; or
 - (B) Recklessly causes serious bodily injury to the complainant.
- (b) *Second Degree.* A person commits second degree criminal abuse of a vulnerable adult or elderly person when that person:

- (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is a vulnerable adult or elderly person;
- (2) Either:
 - (A) Causes serious mental injury to the complainant; or
 - (B) Causes significant bodily injury to the complainant.
- (c) *Third Degree*. A person commits third degree criminal abuse of a vulnerable adult or elderly person when that person:
 - (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is a vulnerable adult or elderly person;
 - (2) ~~Engages in 1 of the following:~~ In fact, commits against the complainant: ~~stalking under RCC § 22E-1801; sixth degree assault under RCC § 22E-1202(f); menacing under RCC § 22E-1203; criminal threats under RCC § 22E-1204; criminal restraint under RCC § 22E-1404; or first degree offensive physical contact under RCC § 22E-1205(a); criminal restraint under RCC § 22E-1404; stalking under RCC § 22E-1801; or electronic stalking under RCC § 22E-1802 against the complainant.;~~
 - (A) ~~Purposely causes significant emotional distress by confining the complainant; or~~
 - (B) ~~Recklessly causes bodily injury to the complainant.~~
- (d) *Defenses*. ~~Effective Consent to Religious Prayer in Lieu of Medical Treatment Defense. In addition to any defenses otherwise applicable under District law, it is a defense to prosecution liability under this section that, in fact:~~
 - (1) ~~The actor has~~ the complainant's gave effective consent to the conduct charged to constitute the offense, or the actor reasonably believes~~d~~ that the actor has the complainant's gave effective consent; to the conduct charged to constitute the offense; and
 - (2) The conduct charged to constitute the offense is the administration of, or allowing the administration of, religious prayer alone, in lieu of medical treatment which the actor otherwise has~~d~~ a responsibility, under civil law, to provide or allow.
 - (3) ~~Burden of Proof. If any evidence for the requirements of this defense is present at trial, the government must prove the absence of all requirements of the defense beyond a reasonable doubt.~~
- (e) *Penalties*.
 - (1) First degree criminal abuse of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree criminal abuse of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree criminal abuse of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (f) *Definitions.* The terms “purposely,” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor,” “bodily injury,” “complainant,” “effective consent,” “elderly person,” “serious bodily injury,” “serious mental injury,” “significant bodily injury,” ~~“significant emotional distress,”~~ and “vulnerable adult” have the meanings specified in RCC § 22E-701.

RCC § 22E-1504. Criminal Neglect of a Vulnerable Adult or Elderly Person.

- (a) *First ~~D~~egree.* A person commits first degree criminal neglect of a vulnerable adult or elderly person when that person:
- (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is a vulnerable adult or elderly person;
 - (2) Creates, or fails to mitigate or remedy, a substantial risk that the complainant would experience serious bodily injury or death.
- (b) *Second ~~D~~egree.* A person commits second degree criminal neglect of a ~~minor~~ vulnerable adult or elderly person when that person:
- (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is a vulnerable adult or elderly person;
 - (2) Creates, or fails to mitigate or remedy, a substantial risk that the complainant would experience:
 - (A) Significant bodily injury; or
 - (B) Serious mental injury.
- (c) *Third ~~D~~egree.* A person commits third degree criminal neglect of a ~~minor~~ vulnerable adult or elderly person when that person:
- (1) Reckless as to the fact that he or she has a responsibility under civil law for the health, welfare, or supervision of the complainant who is a vulnerable adult or elderly person;
 - (2) Fails to make a reasonable effort to provide food, clothing, shelter, supervision, medical services, medicine, or other items or care essential for the physical health, mental health, or safety of the complainant.
- (d) *Defenses.* ~~Effective Consent to Religious Prayer in Lieu of Medical Treatment Defense. In addition to any defenses otherwise applicable under District law, it~~ is a defense to ~~prosecution liability~~ under this section that:
- (1) ~~In fact, the actor has~~ the complainant’s ~~gave~~ effective consent to the conduct charged to constitute the offense, or the actor reasonably believes~~d~~ that the actor has the complainant’s ~~gave~~ effective consent to the conduct charged to constitute the offense; and
 - (2) ~~In fact,~~ the conduct charged to constitute the offense is the administration of, or allowing the administration of, religious prayer alone, in lieu of medical treatment which the actor otherwise ~~had~~s a responsibility, under civil law, to provide or allow.

~~(3) *Burden of Proof.* If any evidence for the requirements of this defense is present at trial, the government must prove the absence of all requirements of the defense beyond a reasonable doubt.~~

(e) *Penalties.*

- (1) First degree criminal neglect of a vulnerable adult or elderly person is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) Second degree criminal neglect of a vulnerable adult or elderly person is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (3) Third degree criminal neglect of a vulnerable adult or elderly person is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(f) *Definitions.* The term “reckless” has the meaning specified in RCC § 22E-206; and the terms “actor,” “complainant,” “effective consent,” “elderly person,” “serious bodily injury,” “serious mental injury,” “significant bodily injury,” and “vulnerable adult” have the meanings specified in RCC § 22E-701.

~~(g) *Jury Trial.* A defendant charged with a violation or an inchoate violation of subsection (e) of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

Chapter 16. Human Trafficking.

RCC § 22E-1601. Forced Labor or Services.

(a) *Offense.* An actor commits forced labor or services when that actor:

- (1) Knowingly causes a person to engage in labor or services;
- (2) By means of an explicit or implicit coercive threat or debt bondage.

(b) *Exclusions from Liability.* A person does not commit an offense under this section for threats of legal employment actions, such as threats of termination, demotion, reduced pay or benefits, or scheduling changes, in order to compel an employee to provide labor or services.

(c) ~~(b)~~ *Penalties.*

- (1) Subject to ~~the~~ any general penalty enhancements under this title, ~~in RCC §§ 22E-605—22E-608,~~ and the offense penalty enhancement in subsection (c) of this section, forced labor or services is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) ~~(e)~~ *Offense Penalty Enhancements.* In addition to any general penalty enhancements under this title, ~~in RCC §§ 22E-605—22E-608,~~ the penalty classification for any gradation of this offense ~~may be~~ is increased in severity by one class when, in addition to the elements of the offense, ~~one or more of the following is proven:~~

- (A) ~~(4)~~ The actor was reckless as to the fact that the complainant was under 18 years of age; or

- (B) ~~(2)~~ The actor held the complainant, or caused the complainant to provide services, for more than 180 days.
- (d) *Definitions.* The terms “knowingly,” and “recklessly” have the meanings specified in RCC § 22E-206; the terms “coercive threat” “debt bondage” “labor,” and “services,” have the meanings specified in RCC § 22E-701.
- ~~(e) *Exclusions from Liability.* An actor shall not be subject to prosecution this section for threats of ordinary and legal employment actions, such as threats of termination, demotion, reduced pay or benefits, or scheduling changes, in order to compel an employee to provide labor or services.~~

RCC § 22E-1602. Forced Commercial Sex.

- (a) *Offense.* An actor commits forced commercial sex when that actor:
 - (1) Knowingly causes the complainant to engage in a commercial sex act ~~with another person~~ other than with the actor;
 - (2) By means of an ~~explicit or implicit~~ coercive threat or debt bondage.
- (b) *Penalties.*
 - (1) Subject to the general penalty enhancements in ~~under this title, in RCC §§ 22E-605—22E-608,~~ and the offense penalty enhancement in subsection (c) of this section, forced commercial sex is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) ~~(e)~~ *Offense Penalty Enhancements.* In addition to any general penalty enhancements in ~~under this title, in RCC §§ 22E-605—22E-608,~~ the penalty classification for any gradation of this offense ~~may be~~ is increased in severity by one class when, in addition to the elements of the offense, ~~one or more of the following is proven:~~
 - (A) ~~(1)~~ The actor was reckless as to the fact that the complainant was under 18 years of age, or, in fact, the complainant was under 12 years of age; or
 - (B) ~~(2)~~ The actor ~~recklessly~~ held the complainant, or caused the complainant to provide commercial sex acts, for a total of more than 180 days.
- (c) *Definitions.* The terms “knowingly,” and “recklessly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC §22E-207; the terms “business,” “coercive threat” “commercial sex act,” and “debt bondage” have the meanings specified in RCC § 22E-701.

RCC § 22E-1603. Trafficking in Labor or Services.

- (a) *Offense.* An actor commits trafficking in labor or services when that actor:
 - (1) Knowingly recruits, entices, houses, transports, provides, obtains, or maintains by any means, a person;
 - (2) With intent that, as a result, the person will be caused to provide labor or services by means of an ~~explicit or implicit~~ coercive threat or debt bondage.
- (b) *Penalties.*

- (1) Subject to the general penalty enhancements ~~under this title, in RCC §§ 22E-605—22E-608,~~ and the offense penalty enhancement in subsection (c) of this section, trafficking in labor or services is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) ~~(e)~~ *Penalty Enhancements.* In addition to any general penalty enhancements in ~~under this title, in RCC §§ 22E-605—22E-608,~~ the penalty classification for any gradation of this offense ~~may be~~ is increased in severity by 1 class when, in addition to the elements of the offense, 1 or more of the following is proven:
 - (A) ~~(1)~~ The actor was reckless as to the fact that the complainant was under 18 years of age; or
 - (B) ~~(2)~~ The actor held the complainant, or caused the complainant to provide services, for a total of more than 180 days.
- (c) *Definitions.* The terms “intent,” “knowingly,” and “recklessly” have the meanings specified in RCC § 22E-206; the terms “actor,” “coercive threat,” “commercial sex act,” “complainant,” and “debt bondage” have the meanings specified in RCC § 22E-701.

RCC § 22E-1604. Trafficking in Commercial Sex.

- (a) *Offense.* An actor commits trafficking in commercial sex when that actor:
 - (1) Knowingly recruits, entices, houses, transports, provides, obtains, or maintains by any means, the complainant;
 - (2) With intent that, as a result, the complainant will be caused to engage in a commercial sex act ~~with another person other than with the actor~~ by means of an ~~explicit or implicit~~ coercive threat or debt bondage.
- (b) *Penalties.*
 - (1) Subject to ~~the any~~ general penalty enhancements ~~under this title, in RCC §§ 22E-605—22E-608,~~ and the offense penalty enhancement in ~~subsection (e) paragraph (b)(1)~~ of this section, trafficking in commercial sex is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) ~~(e)~~ *Penalty Enhancements.* ~~Before applying—~~In addition to any general penalty enhancements ~~under this title, in RCC §§ 22E-605—22E-608,~~ the penalty classification for any gradation of this offense ~~may be~~ is increased in severity by 1 class when, in addition to the elements of the offense, 1 or more of the following is proven:
 - (A) ~~(1)~~ The actor was reckless as to the fact that the complainant was under 18 years of age, or, in fact, the complainant was under 12 years of age; or
 - (B) ~~(2)~~ The actor ~~recklessly~~ held the complainant, or caused the complainant to provide commercial sex acts, for a total of more than 180 days.
- (c) *Definitions.* The terms “intent,” “knowingly,” and “recklessly,” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning

specified in RCC § 22E-207; the terms “actor,” “coercive threat,” “commercial sex act,” and “debt bondage” have the meanings specified in RCC § 22E-701.

RCC § 22E-1605. Sex Trafficking ~~of Minors~~ a Minor.

- (a) *Offense.* An actor commits sex trafficking of minors when that actor:
- (1) Knowingly recruits, entices, houses, transports, provides, obtains, or maintains by any means the complainant;
 - (2) With intent that the complainant, as a result, will be caused to engage in a commercial sex act ~~with another person with other than with the actor~~;
 - (3) With recklessness as to the fact that complainant is under the age of 18.
- (b) *Penalties.*
- (1) Subject to ~~the any~~ general penalty enhancements in ~~this title RCC §§ 22E-605—22E-608~~ and the offense penalty enhancement in subsection (c) of this section, trafficking in commercial sex is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) ~~(e)~~ *Offense Penalty Enhancements.* In addition to any general penalty enhancements ~~under this title, in RCC §§ 22E-605—22E-608,~~ the penalty classification for this offense ~~may be~~ is increased in severity by one class when, in addition to the elements of the offense, the person recklessly held the complainant, or caused the complainant to provide commercial sex acts for a total of more than 180 days.
- (a) *Definitions.* The terms “intent,” “knowingly,” and “recklessly,” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “actor,” and “commercial sex act” have the meanings specified in RCC § 22E-701.

RCC § 22E-1606. Benefiting from Human Trafficking.

- (a) *First Degree.* An actor commits first degree benefiting from human trafficking when that actor:
- (1) Knowingly obtains any financial benefit or property;
 - (2) By participating in a group of 2 or more persons;
 - (3) Reckless as to the fact that the group is engaging in conduct that, in fact: constitutes forced commercial sex under RCC § 22E-1604, trafficking in commercial sex under RCC § 22E-1606, or sex trafficking of minors under RCC § 22E-1605-; and
 - (4) ~~The actor’s participation in the group furthers, in any manner, the conduct that constitutes a human trafficking offense.~~
- (b) *Second Degree.* An actor commits second degree benefiting from human trafficking when that actor:
- (1) Knowingly obtains any financial benefit or property;
 - (2) By participation in a group of 2 or more persons;
 - (3) Reckless as to the fact that the group is engaging in conduct that, in fact: constitutes Forced Labor or Services under RCC § 22E-1603 or Trafficking in Labor or Services under RCC § 22E-1605-; and

- (4) In fact, the actor’s participation in the group furthers, in any manner, the conduct that constitutes a human trafficking offense.
- (c) *Penalties.* Subject to ~~the any~~ general penalty enhancements under this title, ~~in RCC §§ 22E-605—22E-608,:~~
- (1) First degree benefitting from human trafficking is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) Second degree benefitting from human trafficking is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor” and “property” have the meanings specified in RCC § 22E-701.

RCC § 22E-1607. Misuse of Documents in Furtherance of Human Trafficking.

- (a) ~~*Offense First Degree.*~~ An actor commits ~~first degree~~ misuse of documents in furtherance of human trafficking when that actor:
- (1) Knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported government identification document, including a passport or other immigration document of any person;
- (2) With intent to restrict the person’s liberty to move or travel in order to maintain ~~the labor, services, or~~ performance of a commercial sex act by that person.
- (b) ~~*Second Degree.*~~ An actor commits ~~second degree~~ misuse of documents in furtherance of human trafficking when that actor:
- (1) Knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported government identification document, including a passport or other immigration document of any person;
- (2) With intent to restrict the person’s liberty to move or travel in order to maintain the labor or services of that person.
- (c) *Penalty.* Subject to ~~the any~~ general penalty enhancements under this title, ~~in RCC §§ 22E-605—22E-608,:~~ ~~misuse of documents in furtherance of human trafficking is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.~~
- (1) First degree misuse of documents in furtherance of human trafficking is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) Second degree misuse of documents in furtherance of human trafficking is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (a) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the terms “actor,” “commercial sex act,” “labor,” “possess” and “service” have the meanings specified in RCC § 22E-701.

RCC § 22E-1608. Commercial Sex with a Trafficked Person.

- (a) *First Degree.* An actor commits first degree commercial sex with a trafficked person when that actor:
- (1) Knowingly engages in a commercial sex act;
 - (2) When an **explicit or implicit** coercive threat or debt bondage by another person causes the complainant to submit to or engage in the commercial sex act;
 - (3) Reckless as to the fact that the complainant is under 18 years of age, or, in fact, the complainant is under 12 years of age.
- (b) *Second Degree.* An actor commits second degree commercial sex with a trafficked person when that actor:
- (1) Knowingly engages in a commercial sex act;
 - (2) When either:
 - (A) An **explicit or implicit** coercive threat or debt bondage by another person causes the complainant to submit to or engage in the commercial sex act; or
 - (B) The complainant is recruited, enticed, housed, transported, provided, obtained, or maintained for the purpose of causing the person to submit to or engage in the commercial sex act; and the actor is reckless that the complainant is under 18 years of age, or in fact, the complainant is under 12 years of age.
- (c) *Penalties.* Subject to ~~the~~ **any** general penalty enhancements **under this title, in RCC §§ 22E-605 – 22E-608;**
- (1) First degree ~~sex trafficking patronage commercial sex with a trafficked person~~ is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree ~~sex trafficking patronage commercial sex with a trafficked person~~ is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “knowingly” and “recklessly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-206; the terms “actor,” “coercive threat,” “commercial sex act,” “complainant,” and “debt bondage” have the meanings specified in RCC § 22E-701.

RCC § 22E-1609. Forfeiture.

- (a) In imposing sentence on any person convicted of a violation of this chapter, the court may order, in addition to any sentence imposed, that the person shall forfeit to the District of Columbia:
- (1) Any interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of the violation; and
 - (2) Any property, real or personal, constituting or derived from any proceeds that the person obtained, directly or indirectly, as a result of the violation.
- (b) The following shall be subject to forfeiture to the District of Columbia and no property right shall exist in them:

- (1) Any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of any violation of this chapter.
- (2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

RCC § 22E-1610. Reputation or Opinion Evidence.

In a criminal case in which a person is accused of forced commercial sex under RCC § 22E-1602; trafficking in commercial sex under RCC § 22E-1604; sex trafficking of minors under RCC § 22E-1605; or benefitting from human trafficking under RCC § 22E-1606; reputation or opinion evidence of the past sexual behavior of the alleged victim is not admissible. Evidence of an alleged victim's past sexual behavior other than reputation or opinion evidence also is not admissible, unless such evidence other than reputation or opinion evidence is admitted in accordance with **RCC § 22E-1311 (b) D.C. Code § 22-3022(b)**, and is constitutionally required to be admitted.

RCC § 22E-1611. Civil Action.

- (a) An individual who is a victim of an offense prohibited by RCC §§ 22E-1601, 22E-1602, 22E-1603, 22E-1604, 22E-1605, 22E-1606, 22E-1607, ~~and-or~~ 22E-1608 may bring a civil action in the Superior Court of the District of Columbia. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where a defendant's acts were willful and malicious.
- (b) Any action for recovery of damages arising out of an offense in this chapter may not be brought after 5 years from when the victim knew, or reasonably should have known, of any act constituting an offense in this chapter, or if the offense occurred while the victim was less than 35 years of age, the date that the victim turns 40 years of age, whichever is later.
- (c) If a person entitled to sue is imprisoned, insane, or similarly incapacitated at the time the cause of action accrues, so that it is impossible or impracticable for him or her to bring an action, then the time of the incapacity is not part of the time limited for the commencement of the action.
- (d) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action.

RCC § 22E-1612. Limitation on Liabilities and Sentencing for RCC Chapter 16 Offenses.

- (a) *Accomplice Liability for Victims of Trafficking.* A person shall not be charged as an accomplice to the commission of an offense under this chapter if, prior to commission of the offense, the person was himself or herself a victim of an offense under this chapter by the principal **within 3 years prior to the conduct by the principal that constitutes the offense.**

- (b) *Conspiracy Liability for Victims of Trafficking.* A person shall not be charged with conspiracy to commit an offense under this chapter if, prior to the conspiracy, the person was himself or herself a victim of an offense under this chapter by a party to the conspiracy **within 3 years prior to the formation of the conspiracy.**

Chapter 18. Stalking, Obscenity, and Invasions of Privacy.

RCC § 22E-1801. Stalking.

- (a) *Offense.* ~~Except as provided in subsection (b) of this section,~~ A person commits stalking when that person:
- (1) Purposely, ~~on 2 or more separate occasions,~~ engages in a course of conduct directed at a complainant that consists of **2 or more separate occasions** of any of the following:
 - (A) Physically following or physically monitoring **the complainant;**
 - (B) **Falsely personating the complainant;**
 - (C) **Contacting** ~~Communicating to~~ the complainant, by use of a telephone, mail, delivery service, electronic message, in person, or any other means, **negligent as to the fact that the contact is without the complainant's effective consent after knowingly receiving notice from the complainant, directly or indirectly, to stop such communication;** or
 - (D) In fact, committing, soliciting, or attempting: ~~a criminal harm involving a trespass, threat, taking of property, or damage to property;~~
 - (i) Criminal Threats under RCC § 22E-1204;
 - (ii) Theft under RCC § 22E-2101;
 - (iii) Identity Theft under RCC § 22E-2205;
 - (iv) Arson under RCC § 22E-2501;
 - (v) Criminal Damage to Property under RCC § 22E-2503;
 - (vi) Criminal Graffiti under RCC § 22E-2504;
 - (vii) Trespass under RCC § 22E-2601;
 - (viii) Breach of Home Privacy under RCC § 22E-4205; or
 - (ix) Indecent Exposure under RCC § 22E-4206;
 - (2) Either:
 - (A) With intent to cause the complainant to:
 - (i) Fear for the complainant's safety or the safety of another person; or
 - (ii) Suffer significant emotional distress; or
 - (B) Negligently causing the complainant to:
 - (i) Fear for the complainant's safety or the safety of another person; or
 - (ii) Suffer significant emotional distress.
- (b) *Exclusions from liability.*

~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at § 5-331.01 et al., or the Open Meetings Act codified at D.C. Code § 2-575.~~

- (1) A person does not commit an offense ~~shall not be subject to prosecution under subparagraph (a)(1)(C) of this section when that person is for a communication that:~~

- (A) Express~~ing~~es an opinion on a political or public matter;:-
- (B) ~~Is~~ Directed to a ~~District government~~ official, candidate for elected office, or employee of a business that serves the public;
- (C) While the complainant is involved in their official duties.~~;-and~~

- (2) A person does not commit an offense ~~shall not be subject to prosecution under this section when that person is for conduct if:~~

- (A) ~~Authorized to engage in the conduct by a court order or District statute, regulation, rule, or license; or~~
- (B) ~~Carrying out a specific, lawful commercial purpose or employment duty, when acting within the reasonable scope of that purpose or duty.~~

~~(A) The person is a journalist, law enforcement officer, professional investigator, attorney, process server, pro se litigant, or compliance investigator; and~~

~~(B) Is acting within the reasonable scope of that role.~~

- (c) *Unit of prosecution.* Where conduct is of a continuing nature, each 24-hour period constitutes one occasion.

~~(d) *Jury trial.* A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

- (d) *Penalties.*

- (1) Stalking is a Class ☒ crime, subject to a maximum term of imprisonment of ☐, a maximum fine of ☐, or both.

- (2) *Penalty enhancements.* In addition to the ~~any~~ general penalty enhancements ~~under this title in RCC §§ 22E-605–22E-608~~, the penalty classification for this offense ~~is may be~~ increased ~~in severity~~ by one class when, ~~in addition to the elements of the offense, one or more of the following is proven~~ the person, in fact:

- (A) ~~The person, in fact, was subject to~~ Violates a court order or condition of release prohibiting or restricting contact with the complainant;

- (B) ~~The person, in fact,~~ Has one or more prior convictions within 10 years for: ~~for stalking any person within the previous 10 years;~~
 - (i) Stalking under RCC § 22E-1801 or a comparable offense;
 - or
 - (ii) Electronic Stalking under RCC § 22E-1802 or a comparable offense;

- (C) ~~(D) The person~~ Caused more than \$5,000 ~~\$2,500~~ in financial injury; or

- (D) ~~The person was, in fact, Is~~ 18 years of age or older, ~~and is~~ at least 4 years older than the complainant, and ~~is the person~~ recklessly ~~disregarded as to the fact that the complainant is was~~ under 18 years of age. ~~÷ or~~

(e) *Definitions.*

- (1) The terms “intent,” “negligently,” “purposely,” and “recklessly” have the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~the term “attempting” has the meaning specified in RCC § 22E-301; the term “soliciting” has the meaning specified in RCC § 22E-302;~~ the term “prior conviction” has the meaning specified in RCC § 22E-606; and the terms “comparable offense,” “complainant,” “District official,” “effective consent,” “law enforcement officer,” “physically following,” “physically monitoring,” “property,” and “significant emotional distress” have the meanings specified in RCC § 22E-701.
- (2) In this section, the term “safety” means ongoing security from significant intrusions on one’s bodily integrity or bodily movement.

RCC § 22E-1802. Electronic Stalking.

(a) *Offense.* A person commits electronic stalking when that person:

- (1) Purposely, ~~on 2 or more separate occasions,~~ engages in a course of conduct directed at a complainant that consists of ~~2 or more separate occasions of:~~
- (A) Creating an image or an audio recording of the complainant, other than a derivative image or audio recording; or
 - (B) Accessing monitoring equipment or software, on property of another, that discloses the complainant’s location; ~~and~~
- (2) ~~The person engages in the course of conduct~~ Either:
- (A) With intent to cause the complainant to:
 - (i) Fear for the complainant’s safety or the safety of another person; or
 - (ii) Suffer significant emotional distress; or
 - (B) Negligently causing the complainant to:
 - (i) Fear for the complainant’s safety or the safety of another person; or
 - (ii) Suffer significant emotional distress.

(b) *Exclusions from liability.*

~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at § 5-331.01 et al., or the Open Meetings Act codified at D.C. Code § 2-575.~~

- (1) A person ~~does not commit an offense shall not be subject to prosecution under subparagraph (a)(1)(A) of this section when if:~~
- (A) The person is a party to the communication ~~on the audio recording; or~~

- (B) One of the parties to the communication ~~on the audio recording gives has given~~ effective consent to the conduct.
- (2) A person ~~does not commit an offense shall not be subject to prosecution under this section when that person is for conduct if:~~
 - (A) Authorized to engage in the conduct by a court order or District statute, regulation, rule, or license; or
 - (B) Carrying out a specific, lawful commercial purpose or employment duty, when acting within the reasonable scope of that purpose or duty.
 - ~~(A) The person is a journalist, photojournalist, law enforcement officer, professional investigator, attorney, process server, pro se litigant, or compliance investigator; and~~
 - ~~(B) Is acting within the reasonable scope of that role.~~
- (c) *Unit of prosecution.* Where conduct is of a continuing nature, each 24-hour period constitutes one occasion.
- ~~(d) *Jury Trial.* A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (d) *Penalties.*
 - (1) Electronic stalking is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) *Penalty enhancements.* In addition to ~~the any~~ general penalty enhancements ~~under this title in RCC §§ 22E-605—22E-608~~, the penalty classification for this offense ~~is may be~~ increased ~~in severity~~ by one class when, ~~in addition to the elements of the offense, one or more of the following is proven~~ the person, in fact:
 - (A) ~~The person, in fact, was subject to~~ Violates a court order or condition of release prohibiting or restricting contact with the complainant;
 - (B) ~~The person, in fact,~~ Has one or more prior convictions within 10 years for: ~~for stalking or electronic stalking any person within the previous 10 years;~~
 - (i) Stalking under RCC § 22E-1801 or a comparable offense; or
 - (ii) Electronic Stalking under RCC § 22E-1802 or a comparable offense;
 - (C) ~~(D) The person~~ Caused more than \$5,000 in financial injury; or
 - (D) ~~The person was, in fact,~~ Is 18 years of age or older, and is at least 4 years older than the complainant, and ~~is the person~~ recklessly disregarded as to the fact that the complainant ~~is was~~ under 18 years of age; ~~or~~
- (e) *Definitions.*
 - (1) The terms “intent,” “negligently,” and “purposely” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “comparable offense,” “complainant,” “effective consent,” “financial injury,” “image,” “law enforcement

officer,” “property of another,” and “significant emotional distress” have the meanings specified in RCC § 22E-701; and the term “prior conviction” has the meaning specified in RCC § 22E-606.

- (2) In this section, the term “safety” means ongoing security from significant intrusions on one’s bodily integrity or bodily movement.

RCC § 22E-1803. Voyeurism.

- (a) *First degree.* An actor commits first degree voyeurism when that actor:

- (1) Knowingly **creates**:

- (A) **Creates** An image, other than a derivative image, of the complainant’s nude or undergarment-clad genitals, pubic area, anus, buttocks, or **developed** female breast below the top of the areola; **or**
- (B) **Creates** an image or audio recording, other than a derivative image or audio recording, of the complainant engaging in or submitting to a sexual act or masturbation; **or**
- (C) **An image, other than a derivative image, of the complainant urinating or defecating;**

- (2) Without the complainant’s effective consent; and

- (3) In fact, the complainant has a reasonable expectation of privacy under the circumstances.

- (b) *Second degree.* An actor commits second degree voyeurism when that actor:

- (1) Knowingly observes **directly**:

- (A) The complainant’s nude or undergarment-clad genitals, anus, pubic area, buttocks, or **developed** female breast below the top of the areola; **or**
- (B) The complainant engaging in or submitting to a sexual act or masturbation; **or**
- (C) **The complainant urinating or defecating;**

- (2) Without the complainant’s effective consent; and

- (3) In fact, the complainant has a reasonable expectation of privacy under the circumstances.

- (c) *Penalties.*

- (1) First degree voyeurism is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (2) Second degree voyeurism is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (3) *Penalty enhancements.* In addition to **the any** general penalty enhancements **under this title in RCC §§ 22E-605—22E-608**, the penalty classification for **any gradation** of this offense **is may be** increased **in severity** by one class when, **in addition to the elements of the offense, it is proven that** the actor **is reckless as to the fact that knew** the complainant **is was** under 18 years of age.

- (d) *Definitions.* The term “knowingly” has the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “complainant,” “effective consent,” “image,” **“law enforcement**

~~officer,” “property of another,”~~ and “sexual act” have the meanings specified in RCC § 22E-701.

RCC § 22E-1804. Unauthorized Disclosure of a Sexual Recordings.

(a) *Offense.* An actor commits unauthorized disclosure of sexual recordings when that actor:

(1) Knowingly distributes or displays to a person other than the complainant, or makes accessible on an electronic platform to a user other than the complainant or actor:

(A) An image of the complainant’s:

(i) Nude genitals or anus; or

(ii) Nude or undergarment-clad pubic area, buttocks, or ~~developed~~ female breast below the top of the areola; or

(B) An image or an audio recording of the complainant engaging in or submitting to a sexual act, masturbation, or sadomasochistic abuse;

(4) Without the complainant’s effective consent; and

(5) Either:

(A) After reaching an ~~explicit or implicit~~ agreement ~~or understanding~~ with the complainant that the image or audio recording will not be distributed or displayed, with intent to:

(i) Alarm or sexually abuse, humiliate, harass, or degrade the complainant; or

(ii) Receive financial gain as a result of the distribution or display; or

(B) In fact, after personally obtaining the image or audio recording by ~~committing a District offense that is, in fact conduct that constitutes:~~

(i) Voyeurism under RCC § 22E-1803;

(ii) Theft under RCC § 22E-2101;

(iii) Unauthorized Use of Property under RCC § 22E-2102; or

(iv) Extortion under RCC § 22E-2102.

(b) *Exclusions from liability.*

~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~

(1) A person does not commit an offense under this section when that person is ~~Nothing in this chapter shall be construed to impose liability on~~ a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.

(2) A person does not commit an offense under this section when that person is ~~Nothing in this chapter shall be construed to impose liability on~~ an interactive computer service, as defined in section 230(e)(2) of the Communications Act of 1934, approved February 8, 1996 (110 Stat. 139; 47 U.S.C. § 230(f)(2)), for content provided by another person.

- (c) *Affirmative defense.* ~~(1)~~ It is an affirmative defense to ~~liability a prosecution~~ under this section, that the ~~actor defendant~~:
- (1) ~~(B)~~ With intent, exclusively and in good faith, to report possible illegal conduct or seek legal counsel from any attorney; or
 - (2) ~~(A)~~ In fact, distributes the image or audio recording to a person whom the actor reasonably believes is:
 - (A) A law enforcement officer ~~agency~~, prosecutor, or attorney; or
 - (B) A teacher, school counselor, school administrator, or person with a responsibility under ~~District~~ civil law for the health, welfare, or supervision of a the person who is: ~~that the actor reasonably believed to be~~
 - (i) Depicted in the image or audio recording; or
 - (ii) Involved in the creation of the image; or audio recording.
- ~~(2) Burden of proof. The defendant has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~
- (d) *Penalties.*
- (1) Unauthorized disclosure of sexual recordings is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) *Penalty Enhancements.* In addition to the ~~any~~ general penalty enhancements ~~under this title in RCC §§ 22E-605–22E-608~~, the penalty classification for this offense is ~~may be~~ increased ~~in severity~~ by one class when ~~it is proven that~~ the actor knowingly:
 - (A) Distributes or displays the image or audio recording to 6 or more persons other than the complainant; or
 - (B) Makes the image or audio recording publicly accessible on an electronic platform to a user other than the complainant or actor; ~~the image or audio recording.~~
- (e) *Definitions.*
- (1) The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “effective consent,” “image,” ~~“law enforcement officer,”~~ “sodomasochistic abuse,” and “sexual act,” have the meanings specified in RCC § 22E-701.
 - (2) In this section, the term “licensee” has the meaning specified in 47 U.S.C. § 153(30).

RCC § 22E-1805. Distribution of an Obscene Image.

- (a) *Offense.* An actor commits distribution of an obscene image when that actor:
- (1) Knowingly distributes or displays to a complainant an image that depicts a real or fictitious person engaging in or submitting to an actual or simulated:
 - (A) Sexual act;
 - (B) Sadomasochistic abuse;

- (C) Masturbation;
- (D) Sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering;
- (E) Sexual contact; or
- (F) Sexual or sexualized display of the breast below the top of the areola, or buttocks, when there is less than a full opaque covering;
- (2) Without the complainant's effective consent; and
- (3) Reckless as to the fact that the image is obscene.
- (b) *Exclusions from liability.*
 - ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - (1) A person does not commit an offense under this section when that person is ~~Nothing in this chapter shall be construed to impose liability on~~ a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.
 - (2) A person does not commit an offense under this section when that person is ~~Nothing in this chapter shall be construed to impose liability on~~ an interactive computer service, as defined in section 230(e)(2) of the Communications Act of 1934, approved February 8, 1996 (110 Stat. 139; 47 U.S.C. § 230(f)(2)), for content provided by another person.
 - (3) A person does not commit an offense ~~An actor shall not be subject to prosecution~~ under this section ~~when that person for distributions or displays of~~ an image to a complainant in a location open to the general public or in an electronic forum, unless the actor ~~also~~:
 - (A) Knowingly distributes or displays the image directly to the complainant; or
 - (B) Purposely distributes or displays the image to the complainant.
- (c) *Affirmative defense.* ~~(1) It is an affirmative defense to liability a prosecution under this section, which the defendant must prove by a preponderance of the evidence, that the actor, in fact defendant:~~
 - (1) ~~(A)~~ Is an employee of a school, museum, library, ~~or~~ movie theater, ~~or other venue~~;
 - (2) ~~(B)~~ Is acting within the reasonable scope of that role; and
 - (3) ~~(C)~~ Has no control over the selection of the image.~~(2) Burden of Proof. The defendant has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~
- ~~(d) Jury trial. A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (d) *Penalties.* Distribution of an obscene image is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.*
 - (1) The terms “knowingly,” “purposely,” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “complainant,” “effective

consent,” “obscene,” “open to the general public,” “sodomasochistic abuse,” “sexual act,” “sexual contact,” and “simulated” have the meanings specified in RCC § 22E-701.

- (2) In this section, the term “licensee” has the meaning specified in 47 U.S.C. § 153(30).

RCC § 22E-1806. Distribution of an Obscene Image to a Minor.

- (a) *Offense.* An actor commits ~~first-degree~~ distribution of an obscene image to a minor when that actor:

- (1) Knowingly distributes or displays to a complainant an image that depicts a real or fictitious person engaging in or submitting to an actual or simulated:

- (A) Sexual act;
- (B) Sodomasochistic abuse;
- (C) Masturbation;
- (D) Sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering;
- (E) Sexual contact; or
- (F) Sexual or sexualized display of the breast below the top of the areola or buttocks, when there is less than a full opaque covering;

- (2) Reckless as to the fact that:

- (A) The image is obscene; and
- (B) The complainant is under 16 years of age; and

- (3) In fact, the actor is 18 years of age or older and at least 4 years older than the complainant.

- (b) *Exclusions from liability.*

~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~

- (1) ~~A person does not commit an offense under this section when that person is~~ ~~Nothing in this chapter shall be construed to impose liability on~~ a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.

- (2) ~~A person does not commit an offense under this section when that person is~~ ~~Nothing in this chapter shall be construed to impose liability on~~ an interactive computer service, as defined in section 230(e)(2) of the Communications Act of 1934, approved February 8, 1996 (110 Stat. 139; 47 U.S.C. § 230(f)(2)), for content provided by another person.

- (3) ~~A person does not commit an offense~~ ~~An actor shall not be subject to prosecution~~ under this section ~~when that person for~~ ~~distributions~~ or displays ~~of~~ an image to a complainant in a location open to the general public or in an electronic forum, unless the actor ~~also~~:

- (A) Knowingly distributes or displays the image directly to the complainant; or

- (B) Purposely distributes or displays the image to the complainant.

- (c) *Affirmative defenses.*

- (1) It is an affirmative defense to ~~liability a prosecution~~ under this section that the ~~actor, in fact defendant~~:
 - (A) Is an employee of a school, museum, library, ~~or~~ movie theater, ~~or other venue~~;
 - (B) Is acting within the reasonable scope of that role; and
 - (C) Has no control over the selection of the image.
- (2) *Marriage, Domestic Partnership, or Dating Defense.* It is an affirmative defense to ~~liability a prosecution~~ under this section that, ~~in fact~~:
 - (A) The actor:
 - (i) Is married to, or in a domestic partnership with, the complainant; or
 - (ii) Is no more than 4 years older than the complainant and in a romantic, dating, or sexual relationship with the complainant; and
 - (B) The complainant gives effective consent to the conduct or the actor reasonably believes that complainant gave effective consent to the conduct.
- ~~(3) Burden of proof. The defendant has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~
- ~~(d) Jury trial. A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (d) *Penalties.* Distribution of an obscene image to a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.*
 - (1) The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “complainant,” “effective consent,” “obscene,” “open to the general public,” “sadomasochistic abuse,” “sexual act,” “sexual contact,” and “simulated,” have the meanings specified in RCC § 22E-701.
 - (2) In this section, the term “licensee” has the meaning specified in 47 U.S.C. § 153(30).

RCC § 22E-1807. ~~Creating or~~ Trafficking an Obscene Image of a Minor.

- (a) *First ~~D~~egree.* ~~Except as provided in subsection (c) of this section, a~~An actor commits first degree ~~creating or~~ trafficking an obscene image of a minor when that actor:
 - (1) Knowingly:
 - (A) Creates an image, other than a derivative image, by recording, photographing, or filming the complainant, or produces or directs the creation of such an image;
 - (B) As a person with a responsibility under ~~Distriet~~ civil law for the health, welfare, or supervision of the complainant, gives effective

- consent for the complainant to engage in or submit to the recording, photographing, or filming of an image, other than a derivative image;
- (C) Displays, distributes, or manufactures with intent to distribute an image;
- (D) Makes an image accessible to another user on an electronic platform; or
- (E) Sells or advertises an image;
- (2) Reckless as to the fact that the image depicts, or will depict, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) A sexual act or simulated sexual act;
 - (B) Sadomasochistic abuse or simulated sadomasochistic abuse;
 - (C) Masturbation or simulated masturbation; or
 - (D) A sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering.
- (b) *Second Degree.* ~~Except as provided in subsection (c) of this section, a~~ An actor commits second degree ~~creating or~~ trafficking an obscene image of a minor when that actor:
 - (1) Knowingly:
 - (A) Creates an image, other than a derivative image, by recording, photographing, or filming the complainant, or produces or directs the creation of such an image;
 - (B) As a person with a responsibility under ~~District~~ civil law for the health, welfare, or supervision of the complainant, gives effective consent for the complainant to engage in or submit to the recording, photographing, or filming of an image, other than a derivative image;
 - (C) Displays, distributes, or manufactures with intent to distribute an image;
 - (D) Makes an image accessible to another user on an electronic platform; or
 - (E) Sells or advertises an image;
 - (2) Reckless as to the fact that the image depicts, or will depict, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) An obscene sexual contact; or
 - (B) An obscene sexual or sexualized display of the breast below the top of the areola, or the buttocks, when there is less than a full opaque covering.
- (c) *Exclusions from Liability.*
 - (1) ~~Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - (2) A person does not commit an offense under this section when that person is ~~Nothing in this chapter shall be construed to impose liability on a~~

licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.

- (3) A person does not commit an offense under this section when that person is ~~Nothing in this chapter shall be construed to impose liability on~~ an interactive computer service, as defined in section 230(e)(2) of the Communications Act of 1934, approved February 8, 1996 (110 Stat. 139; 47 U.S.C. § 230(f)(2)), for content provided by another person.

- ~~(4) An actor who is under 18 years of age shall not be subject to prosecution under sub paragraphs (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (b)(1)(A), (b)(1)(B), (b)(1)(C) or (b)(1)(D) of this section when that actor:~~

- ~~(A) Is the only person under 18 years of age who is, or who will be, depicted in the image; or~~
~~(B) Acted with the effective consent of every person under 18 years of age who is, or who will be, depicted in the image, or reasonably believed that every person under 18 years of age who is, or who will be, depicted in the image gave effective consent.~~

(d) Affirmative ~~D~~defenses.

- (1) It is an affirmative defense to liability under subsection (a) of this section that the image has, or will have, serious literary, artistic, political, or scientific value, when considered as a whole.

- (2) It is an affirmative defense to liability under subparagraphs (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (b)(1)(A), (b)(1)(B), (b)(1)(C) and (b)(1)(D) of this section that, in fact:

- (A) The actor is the only person under 18 years of age who is, or who will be, depicted in the image; or
(B) The actor has the effective consent to the actor's conduct from every person under 18 years of age who is, or who will be, depicted in the image, or the actor reasonably believes that the actor has the effective consent to the actor's conduct from every person under 18 years of age who is, or who will be, depicted in the image.

- (3) It is an affirmative defense to liability under subparagraphs (a)(1)(A), (a)(1)(C), (a)(1)(D), (b)(1)(A), (b)(1)(C), or (b)(1)(D) of this section that:

- (A) The actor is, in fact, at least 18 years of age, and:

- (i) Is married to, or in a domestic partnership with, the complainant; or

- (ii) ~~no more than 4 years older than the complainant and~~ Is in a romantic, dating, or sexual relationship with the complainant, and:

- (a) The actor is not at least 4 years older than a complainant who is under 16 years of age; and

- (b) The actor is not in a position of trust with or authority over the complainant, and is not at least 4 years older than the complainant who is under 18 years of age;

- (B) The complainant is the only person who is, or who will be, depicted in the image, or the actor and the complainant are the only persons who are, or who will be, depicted in the image;
 - (C) The actor has the complainant's gives effective consent to the actor's conduct or the actor reasonably believes that the actor has the complainant's gave effective consent to the actor's conduct; and
 - (D) Under subparagraphs (a)(1)(C), (b)(1)(C), (a)(1)(D), or (b)(1)(D), the recipient, the intended recipient, or the user of the electronic platform was is the complainant.
- (4) It is an affirmative defense to liability under subparagraphs (a)(1)(C) or (b)(1)(C) of this section for displaying or distributing an image under subparagraphs (a)(1)(C) or (b)(1)(C) of this section that the actor:
 - (A) ~~(B)~~ With intent, exclusively and in good faith, to report possible illegal conduct or seek legal counsel from any attorney; or
 - (B) ~~(A)~~ In fact, distributes or displays the image to a person whom the actor reasonably believes is:
 - (i) A law enforcement agency officer, prosecutor, or attorney; or
 - (ii) A teacher, school counselor, school administrator, or person with a responsibility under District civil law for the health, welfare, or supervision of a the-complainant person that the actor reasonably believes to be depicted in the image or involved in the creation of the image.
- (5) It is an affirmative defense to liability under subparagraphs (a)(1)(C), (a)(1)(D), (a)(1)(E), (b)(1)(C), (b)(1)(D), and (b)(1)(E) of this section that the actor, in fact:
 - (A) Is an employee of a school, museum, library, or movie theater, or other venue;
 - (B) Is acting within the reasonable scope of that role; and
 - (C) Has no control over the creation or selection of the image.
- ~~(6) Burden of Proof. The actor has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~
- (e) Penalties.
 - (1) First degree trafficking an obscene image of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree trafficking an obscene image of a minor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (f) Definitions.
 - (1) The terms "intent," "knowingly," and "reckless" have the meanings specified in RCC § 22E-206; and the terms "actor," "complainant," "domestic partnership," "effective consent," "image," "law enforcement

- ~~officer,”~~ “obscene,” “sodomasochistic abuse,” “sexual act,” “sexual contact,” and “simulated” have the meanings specified in RCC § 22E-701.
- (2) In this section, the term “licensee” has the meaning specified in 47 U.S.C. § 153(30).

RCC § 22E-1808. Possession of an Obscene Image of a Minor.

- (a) *First ~~D~~egree.* ~~Except as provided in subsection (c) of this section, a~~An actor commits first degree possession of an obscene image of a minor when that actor:
- (1) Knowingly possesses an image;
 - (2) Reckless as to the fact that the image depicts, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) A sexual act or simulated sexual act;
 - (B) Sodomasochistic abuse or simulated sodomasochistic abuse;
 - (C) Masturbation or simulated masturbation; or
 - (D) A sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering.
- (b) *Second ~~D~~egree.* ~~Except as provided in subsection (c) of this section, a~~An actor commits second degree possession of an obscene image of a minor when that actor:
- (1) Knowingly possesses an image;
 - (2) Reckless as to the fact that the image depicts, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) An obscene sexual contact; or
 - (B) An obscene sexual or sexualized display of the breast below the top of the areola, or the buttocks, when there is less than a full opaque covering.
- (c) *Exclusions from ~~L~~iability.*
- ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - ~~(2) Nothing in this section shall be construed to impose liability on A person does not commit an offense under this section when that person is a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.~~
 - ~~(3) Nothing in this section shall be construed to impose liability on A person does not commit an offense under this section when that person is an interactive computer service, as defined in section 230(e)(2) of the Communications Act of 1934, approved February 8, 1996 (110 Stat. 139; 47 U.S.C. § 230(f)(2)), for content provided by another person.~~
 - ~~(4) An actor who is under 18 years of age shall not be subject to prosecution under this section when that actor:~~
 - ~~(A) Is the only person under 18 years of age depicted in the image; or~~
 - ~~(B) Acted with the effective consent of every person under 18 years of age depicted in the image, or reasonably believed that every~~

~~person under 18 years of age depicted in the image gave effective consent.~~

(d) Affirmative ~~D~~defenses.

- (1) It is an affirmative defense to ~~liability under~~ subsection (a) of this section that the image has serious literary, artistic, political, or scientific value, when considered as a whole.
- (2) ~~It is an affirmative defense to liability under this section that, in fact, the actor is under 18 years of age, and;~~
 - (A) ~~The actor is the only person under 18 years of age depicted in the image; or~~
 - (B) ~~The actor has the effective consent to the actor's conduct from every person under 18 years of age depicted in the image, or the actor reasonably believes that the actor has the effective consent of every person under 18 years of age depicted in the image.~~
- (3) It is an affirmative defense to this section that:
 - (A) ~~The actor, in fact, is at least 18 years of age, and:~~
 - (i) Is married to, or in a domestic partnership with, the complainant; or
 - (ii) ~~Is no more than 4 years older than the complainant and~~ in a romantic, dating, or sexual relationship with the complainant, ~~and;~~
 - (I) ~~The actor is not at least 4 years older than a complainant who is under the age of 16 years of age; and~~
 - (II) ~~The actor is not in a position of trust with or authority over the complainant, and is not at least 4 years older than the complainant who is under 18 years of age;~~
 - (B) ~~The complainant is the only person who is depicted in the image, or the actor and the complainant are the only persons who are depicted in the image; and~~
 - (C) ~~The actor has~~ the complainant's ~~gives~~ effective consent to the ~~actor's~~ conduct or the actor reasonably believes that the actor has the complainant's ~~gave~~ effective consent to the conduct.
- (4) It is an affirmative defense to this section that the actor:
 - (A) ~~(B)~~ With intent, exclusively and in good faith, to report possible illegal conduct or to seek legal counsel from any attorney; ~~and~~
 - (B) ~~In fact, p~~Promptly contacts a person whom the actor reasonably believes is:
 - (i) A law enforcement ~~agency officer~~, prosecutor, ~~or~~ attorney;
or
 - (ii) ~~A teacher, school counselor,~~ school administrator, or person with a responsibility under ~~District~~ civil law for the health, welfare, or supervision of the complainant that the actor reasonably believes ~~sd~~ to be depicted in the image; ~~and~~
 - (C) Either:

- (i) Promptly distributes the image to one of the ~~authorities or~~ individuals specified in sub-subparagraph (d)(3)(B)(i) or ~~sub-subparagraph (d)(3)(B)(ii)~~ of this section, without making or retaining a copy; or
 - (ii) Affords a law enforcement ~~agency~~ officer access to the image.
- (5) It is an affirmative defense to this section that the actor, in fact:
 - (A) Is an employee of a school, museum, library, ~~or~~ movie theater, or other venue;
 - (B) Is acting within the reasonable scope of that role; and
 - (C) Has no control over the creation or selection of the image.
- ~~(6) Burden of Proof. The actor has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~
- (e) Penalties.
 - (1) First degree possession of an obscene image of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of an obscene image of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (f) Definitions.
 - (1) The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor,” “complainant,” “domestic partnership,” “effective consent,” “image,” ~~“law enforcement officer,”~~ “obscene,” “possesses,” “sodomasochistic abuse,” “sexual act,” “sexual contact,” and “simulated” have the meanings specified in RCC § 22E-701.
 - (2) In this section, the term “licensee” has the meaning specified in 47 U.S.C. § 153(30).

RCC § 22E-1809. Arranging a Live Sexual Performance of a Minor.

- (a) ~~First Ddegree. Except as provided in subsection (c) of this section, a~~An actor commits first degree arranging a live sexual performance of a minor when that actor:
 - (1) Knowingly:
 - (A) Creates, produces, or directs a live performance;
 - (B) As a person with a responsibility under ~~District~~ civil law for the health, welfare, or supervision of the complainant, gives effective consent for the complainant to engage in or submit to the creation of a live performance; or
 - (C) Sells admission to or advertises a live performance;
 - (2) Reckless as to the fact that the live performance depicts, or will depict, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) A sexual act or simulated sexual act;

- (B) Sadomasochistic abuse or simulated sadomasochistic abuse;
 - (C) Masturbation or simulated masturbation; or
 - (D) A sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering.
- (b) *Second Degree*. ~~Except as provided in subsection (c) of this section, a~~ An actor commits second degree arranging a live sexual performance of a minor when that actor:
 - (1) Knowingly:
 - (A) Creates, produces, or directs a live performance;
 - (B) As a person with a responsibility under ~~District~~ civil law for the health, welfare, or supervision of the complainant, gives effective consent for the complainant to engage in or submit to the creation of a live performance; or
 - (C) Sells admission to or advertises a live performance.
 - (2) Reckless as to the fact that the live performance depicts, or will depict, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) An obscene sexual contact; or
 - (B) An obscene sexual or sexualized display of the breast below the top of the areola, or the buttocks, when there is less than a full opaque covering.
- ~~(c) Exclusions from Liability.~~
 - ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - ~~(2) An actor under 18 years of age shall not be subject to prosecution under subparagraphs (a)(1)(A) or (b)(1)(A) of this section when that actor:~~
 - ~~(A) Is the only person under 18 years of age who is, or who will be, depicted in the live performance; or~~
 - ~~(B) Acted with the effective consent of every person under 18 years of age who is, or who will be, depicted in the live performance, or reasonably believed that every person under 18 years of age who is, or who will be, depicted in the live performance gave effective consent.~~
- (d) *Affirmative Defenses*.
 - (1) It is an affirmative defense to **liability under** subsection (a) of this section that the live performance has, or will have, serious literary, artistic, political, or scientific value.
 - (2) ~~It is an affirmative defense to liability under subparagraphs (a)(1)(A), (a)(1)(B), (b)(1)(A), and (b)(1)(B) of this section that, in fact, the actor is under 18 years of age, and:~~
 - ~~(A) The actor is the only person under 18 years of age who is, or who will be, depicted in the live performance; or~~
 - ~~(B) The actor has the effective consent to the actor's conduct from every person under 18 years of age who is, or who will be, depicted in the live performance, or the actor reasonably believes that the actor has the effective consent to the actor's conduct~~

from every person under 18 years of age who is, or who will be, depicted in the live performance.

- (3) It is an affirmative defense to liability under subparagraphs (a)(1)(A) or (b)(1)(A) of this section, that:

(A) The actor is, in fact, at least 18 years of age, and:

(i) Is married to, or in a domestic partnership with, the complainant; or

(ii) Is ~~no more than 4 years older than the complainant and~~ in a romantic, dating, or sexual relationship with the complainant, and;

(I) The actor is not at least 4 years older than a complainant who is under 16 years of age; and

(II) The actor is not in a position of trust with or authority over the complainant, and is not at least 4 years older than the complainant who is under 18 years of age;

(B) The complainant is the only person who is, or who will be, depicted in the live performance, or the actor and complainant are the only persons who are, or who will be, depicted in the live performance;

(C) The actor has the complainant's gives effective consent to the actor's conduct or the actor reasonably believes that the actor has the complainant's gave effective consent to the actor's conduct;

(D) The actor is the only audience for the live performance, other than the complainant, or the actor reasonably believes that the actor is the only audience for the live performance, other than the complainant.

- (4) It is an affirmative defense to subparagraphs ~~(a)(1)(A)~~, (a)(1)(C); ~~(b)(1)(A)~~, and (b)(1)(C) that the actor, in fact:

(A) Is an employee of a school, museum, library, ~~or~~ movie theater, or other venue;

(B) Is acting within the reasonable scope of that role;

(C) Has no control over the creation or selection of the live performance; and

(D) Does not record, photograph, or film the live performance.

~~(5) Burden of Proof. The actor has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~

(e) *Penalties.*

(1) First degree arranging a live sexual performance of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(2) Second degree arranging a live sexual performance of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (f) *Definitions.* The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor,” “complainant,” “domestic partnership,” “effective consent,” “live performance,” “obscene,” “sodomasochistic abuse,” “sexual act,” “sexual contact,” and “simulated” have the meanings specified in RCC § 22E-701.

RCC § 22E-1810. Attending or Viewing a Live Sexual Performance of a Minor.

- (a) *First Degree.* ~~Except as provided in subsection (c) of this section, a~~An actor commits attending or viewing a live sexual performance of a minor when that actor:
- (1) Knowingly attends or views a live performance or views a live broadcast;
 - (2) Reckless as to the fact that the live performance or live broadcast depicts, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) A sexual act or simulated sexual act;
 - (B) Sodomasochistic abuse or simulated sodomasochistic abuse;
 - (C) Masturbation or simulated masturbation; or
 - (D) A sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering.
- (b) *Second Degree.* ~~Except as provided in subsection (c) of this section, a~~An actor commits attending or viewing a live sexual performance of a minor when that actor:
- (1) Knowingly attends or views a live performance or views a live broadcast;
 - (2) Reckless as to the fact that the live performance or live broadcast depicts, in part or whole, the body of a real complainant under the age of 18 years of age engaging in or submitting to:
 - (A) An obscene sexual contact; or
 - (B) An obscene sexual or sexualized display of the breast below the top of the areola, or the buttocks, when there is less than a full opaque covering.
- ~~(c) Exclusions from Liability.~~
- ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - ~~(2) An actor under 18 years of age shall not be subject to prosecution under this section when that actor:~~
 - ~~(A) Is the only person under 18 years of age who is depicted in the live performance or live broadcast; or~~
 - ~~(B) Acted with the effective consent of every person under 18 years of age who is depicted in the live performance or live broadcast, or reasonably believed that every person under 18 years of age who is depicted in the live performance or live broadcast gave effective consent.~~
- (d) *Affirmative Defense.*

- (1) It is an affirmative defense to **liability under** this section that the live performance or live broadcast has serious literary, artistic, political, or scientific value, when considered as a whole.
- (2) It is an affirmative defense to liability under this section that, in fact:
 - (A) The actor is the only person under 18 years of age who is depicted in the live performance or live broadcast; or
 - (B) The actor has the effective consent to the actor's conduct from every person under 18 years of age who is, or who will be, depicted in the live performance or live broadcast, or the actor reasonably believes that the actor has the effective consent to the actor's conduct from every person under 18 years of age who is, or who will be, depicted in the live performance or live broadcast.
- (3) It is an affirmative defense to **liability under** this section that:
 - (A) The actor **is, in fact, at least 18 years of age, and:**
 - (i) Is married to, or in a domestic partnership with, the complainant; or
 - (i) Is ~~no more than 4 years older than the complainant and~~ in a romantic, dating, or sexual relationship with the complainant, **and;**
 - (I) The actor is not at least 4 years older than a complainant who is under 16 years of age; and
 - (II) The actor is not in a position of trust with or authority over the complainant, and is not at least 4 years older than the complainant who is under 18 years of age;
 - (B) The complainant is the only person that is depicted in the live performance **or live broadcast**, or the actor and the complainant are the only persons that are depicted in the live performance **or live broadcast**;
 - (C) The **actor has the** complainant's ~~gives~~ effective consent to the **actor's** conduct or the actor reasonably believes that **the actor has the** complainant's ~~gave~~ effective consent to the **actor's** conduct; and
 - (D) The actor **is** ~~was~~ the only audience for the live performance or live broadcast, other than the complainant, or the actor reasonably believes~~d~~ that **the actor** ~~he-or-she is was~~ the only audience for the live performance or live broadcast, other than the complainant.
- (4) It is an affirmative defense to this section that the actor, **in fact:**
 - (A) Is an employee of a school, museum, library, ~~or~~ movie theater, **or other venue**;
 - (B) Is acting within the reasonable scope of that role;
 - (C) Has no control over the creation or selection of the live performance or live broadcast; and

(D) Does not record, photograph, or film the live performance or live broadcast.

~~(5) Burden of Proof. The actor has the burden of proof for an affirmative defense and must prove the affirmative defense by a preponderance of the evidence.~~

(e) *Penalties.*

(1) First degree attending a live performance of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(2) Second degree attending a live performance of a minor is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(f) *Definitions.* The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor,” “complainant,” “domestic partnership,” “effective consent,” “live broadcast,” “live performance,” “sexual act,” “sexual contact,” “simulated,” have the meanings specified in RCC § 22E-701.

RCC § 22E-1811. Limitations on Liability for RCC Chapter 18 Offenses.

Notwithstanding any other provision of law, a person under the age of 12 is not subject to prosecution for offenses in this ~~sub~~chapter.

SUBTITLE III. PROPERTY OFFENSES.

Chapter 20. Property Offense Subtitle Provisions.

RCC § 22E-2001. Aggregation to Determine Property Offense Grades.

When a single scheme or systematic course of conduct could give rise to multiple charges of the same offense, the government instead may bring 1 charge and aggregate the values, amounts of damage, or quantities of the property involved in the scheme or systematic course of conduct to determine the grade of the offense. This rule applies to the following offenses:

- (a) RCC § 22E-2101, Theft;
- (b) RCC § 22E-2105, Unlawful Creation or Possession of a Recording;
- (c) RCC § 22E-2201, Fraud;
- (d) RCC § 22E-2202, Payment Card Fraud;
- (e) RCC § 22E-2203, Check Fraud;
- (f) RCC § 22E-2204, Forgery;
- (g) RCC § 22E-2205, Identity Theft;
- (h) RCC § 22E-2206, Identity Theft Civil Provisions;
- (i) RCC § 22E-2207, Unlawful Labeling of a Recording;
- (j) RCC § 22E-2208, Financial Exploitation of a Vulnerable Adult;
- (k) RCC § 22E-2301, Extortion;
- (l) RCC § 22E-2401, Possession of Stolen Property;
- (m) RCC § 22E-2402, Trafficking of Stolen Property;

- (n) RCC § 22E-2403, Alteration of Motor Vehicle Identification Number; and,
- (o) RCC § 22E-2503, Criminal Damage to Property.

~~RCC § 22E-2002. Definition of “Person” for Property Offenses.~~

~~Notwithstanding the definition of “person” in D.C. Code § 45-604, in Subtitle III of this title, “person” means an individual, whether living or dead, as well as a trust, estate, fiduciary, partnership, company, corporation, association, organization, union, government, government agency, or government owned corporation, or any other legal entity.~~

Chapter 21. Theft.

RCC § 22E-2101. Theft.

- (a) *First Ddegree.* A person commits first degree theft when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) Without the consent of an owner;
 - (3) With intent to deprive that owner of the property; and
 - (4) In fact, the property has a value of \$500,000 or more.
- (b) *Second Ddegree.* A person commits second degree theft when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) Without the consent of an owner;
 - (3) With intent to deprive that owner of the property; and
 - (4) In fact, the property has a value of \$50,000 or more.
 - ~~(A) The property has a value of \$50,000 or more; or~~
 - ~~(B) The property is a motor vehicle, and has a value of \$50,000 or more.~~
- (c) *Third Ddegree.* A person commits third degree theft when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) Without the consent of an owner;
 - (3) With intent to deprive that owner of the property; and
 - (4) In fact:
 - (A) The property has a value of \$5,000 or more;
 - (B) The property is a motor vehicle; or
 - (C) The property is taken from a complainant who:
 - (i) Holds or carries the property on his or her person; or
 - (ii) Has the ability and desire to exercise control over the property and it is within his or her immediate physical control.
- (d) *Fourth Ddegree.* A person commits fourth degree theft when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) Without the consent of an owner;

- (3) With intent to deprive that owner of the property; and
 - (4) In fact, the property has a value of \$500 or more.
- (e) *Fifth Degree*. A person commits fifth degree theft when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) Without the consent of an owner;
 - (3) With intent to deprive that owner of the property; and
 - (4) In fact, the property, has any value.
- (f) *Exclusions from Liability*. A person ~~shall not be subject to prosecution~~ **does not commit an offense** under this section for conduct constituting a violation of D.C. Code § 35-252, Failure to pay established fare or to present valid transfer.
- (g) *Penalties*.
 - (1) First degree theft is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree theft is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree theft is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree theft is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree theft is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (h) *Definitions*. The terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “consent,” “deprive,” “motor vehicle,” “owner,” **“person,”** “property,” “property of another,” and “value” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2102. Unauthorized Use of Property.

- (a) *Offense*. A person commits unauthorized use of property when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) Without the effective consent of an owner.
- (b) *Exclusions from Liability*. A person ~~shall not be subject to prosecution~~ **does not commit an offense** under this section for conduct constituting a violation of D.C. Code § 35-252, Failure to pay established fare or to present valid transfer.
- (c) *Penalties*. Unauthorized use of property is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions*. The term “knowingly” has the meaning specified in RCC § 22E-206; the terms “effective consent,” **“person,”** “property,” “property of another,” and “owner” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2103. Unauthorized Use of a Motor Vehicle.

- (a) *Offense.* A person commits unauthorized use of a motor vehicle when that person:
 - (1) Knowingly operates a motor vehicle;
 - (2) Without the effective consent of an owner.
- (b) *Penalties.* Unauthorized use of a motor vehicle is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms “effective consent,” “motor vehicle,” ~~and~~ “owner,” ~~and~~ “person” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2104. Shoplifting.

- (a) *Offense.* A person commits shoplifting when that person:
 - (1) Knowingly:
 - (A) ~~Conceals or holds or carries on one’s person~~ Holds or carries on one’s person, or conceals;
 - (B) Removes, alters, or transfers the price tag, serial number, or other ~~(+)~~ identification mark that is imprinted on or attached to; or
 - (C) Transfers from one container or package to another container or package;
 - (2) Personal property of another that is:
 - (A) Displayed or offered for sale; or
 - (B) Held or stored on the premises in reasonably close proximity to the customer sales area, for future display or sale;
 - (3) With intent to take or make use of the property without complete payment.
- (b) ~~Exclusion from Attempt Liability~~ *No attempt liability.* The general attempt provision in RCC § 22E-301 does not apply to ~~It is not an offense to attempt to commit the offense described in~~ this section.
- (c) *Penalties.* Shoplifting is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Qualified immunity.* A person who displays, holds, stores, or offers for sale personal property as specified in paragraph (a)(2) of this section, or an employee or agent of such a person, who detains or causes the arrest of a person in a place where such property is displayed, held, stored, or offered for sale shall not be held liable for detention, false imprisonment, malicious prosecution, defamation, or false arrest, in any proceeding arising out of such detention or arrest, if:
 - (1) The person detaining or causing the arrest has, at the time thereof, probable cause to believe that the person detained or arrested committed an offense described in this section;
 - (2) The manner of the detention or arrest is reasonable;
 - (3) Law enforcement authorities are notified as soon as practicable; and
 - (4) The person detained or arrested is released as soon as practicable after the detention or arrest, or is surrendered to law enforcement authorities as soon as practicable.

- (e) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the terms “~~person,~~” “property,” and “property of another” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2105. Unlawful Creation or Possession of a Recording.

- (a) *First ~~D~~egree.* A person commits first degree unlawful creation or possession of a recording when that person:
- (1) Knowingly makes, obtains, or possesses either:
 - (A) A sound recording that is a copy of an original sound recording that was fixed prior to February 15, 1972; or
 - (B) A sound recording or audiovisual recording of a live performance;
 - (2) Without the effective consent of an owner;
 - (3) With intent to sell, rent, or otherwise use the recording for commercial gain or advantage; and
 - (4) In fact, the number of ~~unlawful~~ recordings made, obtained, or possessed is 100 or more.
- (b) *Second ~~D~~egree.* A person commits second degree unlawful creation or possession of a recording when that person:
- (1) Knowingly makes, obtains, or possesses either:
 - (A) A sound recording that is a copy of an original sound recording that was fixed prior to February 15, 1972; or
 - (B) A sound recording or audiovisual recording of a live performance;
 - (2) Without the effective consent of an owner;
 - (3) With intent to sell, rent, or otherwise use the recording for commercial gain or advantage; and
 - (4) In fact, any number of ~~unlawful~~ recordings were made, obtained, or possessed.
- (c) *Exclusions from ~~L~~iability.* ~~A person does not commit an offense under this section when that person Nothing in this section shall be construed to prohibit:~~
- (1) ~~Copies~~ing or ~~other reproduction that is~~ reproduces in the manner specifically permitted by Title 17 of the United States Code; or
 - (2) ~~Copies~~ing or ~~other reproduction that is~~ reproduces a sound recording that is made by a licensed radio or television station or a cable broadcaster solely for broadcast or archival use.
- (d) *Penalties.*
- (1) First degree unlawful creation or possession of a recording is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree unlawful creation or possession of a recording is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Forfeiture.* Upon conviction under this section, the ~~Superior Court for the District of Columbia court~~ may, in addition to the penalties provided by this section, order the forfeiture and destruction or other disposition of all sound recordings,

audiovisual recordings, and equipment used, or attempted to be used, in violation of this section.

- (f) *Definitions.* The term “possesses” has the meaning specified in RCC § 22E-701; the terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “audiovisual recording,” ~~“court,”~~ “effective consent,” ~~“person,”~~ ~~“sound recording,”~~ and “owner,” and “sound recording” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2106. Unlawful Operation of a Recording Device in a Motion Picture Theater.

- (a) *Offense.* A person commits unlawful operation of a recording device in a motion picture theater when that person:
- (1) Knowingly operates a recording device within a motion picture theater;
 - (2) Without the effective consent of an owner of the motion picture theater; and
 - (3) With the intent to record a motion picture.
- (b) *Penalties.* Unlawful operation of a recording device in a motion picture theater is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Qualified immunity.* An owner of the motion picture theater specified in subsection (a) of this section, or his or her employee or agent, who detains or causes the arrest of a person in, or immediately adjacent to, the motion picture theater, shall not be held liable for detention, false imprisonment, malicious prosecution, defamation, or false arrest in any proceeding arising out of such detention or arrest, if:
- (1) The person detaining or causing the arrest has, at the time thereof, probable cause to believe that the person detained or arrested committed, or attempted to commit, an offense described in this section;
 - (2) The manner of the detention or arrest is reasonable;
 - (3) Law enforcement authorities are notified as soon as practicable; and
 - (4) The person detained or arrested is released as soon as practicable after the detention or arrest, or is surrendered to law enforcement authorities as soon as practicable.
- (d) *Forfeiture.* Upon conviction under this section, the ~~court~~ **Superior Court for the District of Columbia** may, in addition to the penalties provided by this section, order the forfeiture and destruction or other disposition of all sound recordings, audiovisual recordings, and equipment used, or attempted to be used, in violation of this section.
- (e) *Definitions.* The terms “knowingly,” and “intent,” have the meanings specified in RCC § 22E-206; the terms ~~“court,”~~ “effective consent,” ~~“motion picture theater,”~~ ~~and~~ “owner,” ~~“person,”~~ and “recording device” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002;~~

~~(1) In this section, “motion picture theater” means a theater, auditorium, or other venue that is being utilized primarily for the exhibition of a motion picture to the public; and~~

~~(2) In this section, “recording device” means a photographic or video camera, audio or video recorder, or any other device not existing, or later developed, which may be used for recording sounds or images.~~

Chapter 22. Fraud.

RCC § 22E-2201. Fraud.

- (a) *First Degree.* A person commits first degree fraud when that person:
- (1) Knowingly takes, obtains, transfers, or exercises control over property of another;
 - (2) With the consent of an owner obtained by deception;
 - (3) With intent to deprive ~~that an~~ owner of the property; and
 - (4) In fact:
 - (A) The property, other than labor or services, has a value of \$500,000 or more; or
 - (B) The property is 2080 hours or more of labor or services.
- (b) *Second Degree.* A person commits second degree fraud when that person:
- (1) Knowingly takes, obtains, transfers, or exercises control over property of another;
 - (2) With the consent of an owner obtained by deception;
 - (3) With intent to deprive ~~that an~~ of the property; and
 - (4) In fact:
 - (A) The property, other than labor or services, has a value of \$50,000 or more; or
 - (B) The property is 160 hours or more of labor or services.
- (c) *Third Degree.* A person commits third degree fraud when that person and either:
- (1) Knowingly takes, obtains, transfers, or exercises control over property of another;
 - (2) With the consent of an owner obtained by deception;
 - (3) With intent to deprive ~~that an~~ owner of the property; and
 - (4) In fact:
 - (A) The property, other than labor or services, has a value of \$5,000 or more; or
 - (B) The property is 40 hours or more of labor or services.
- (d) *Fourth Degree.* A person commits fourth degree fraud when that person:
- (1) Knowingly takes, obtains, transfers, or exercises control over property of another;
 - (2) With the consent of an owner obtained by deception;
 - (3) With intent to deprive ~~that an~~ owner of the property; and
 - (4) In fact:
 - (A) The property, other than labor or services, has a value of ~~\$250~~ 500 or more; or
 - (B) The property is 8 hours or more of labor or services.

- (e) *Fifth Degree.* A person commits fifth degree fraud when that person:
- (1) Knowingly takes, obtains, transfers, or exercises control over property of another;
 - (2) With the consent of an owner obtained by deception;
 - (3) With intent to deprive ~~that an~~ owner of the property; and
 - (4) In fact, the property has any value.
- (f) *Penalties.*
- (1) First degree fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and~~ the terms “consent,” “deception,” “deprive,” “~~person,~~” “property,” “property of another,” “services,” and “value” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2202. Payment Card Fraud.

- (a) *First Degree.* A person commits first degree payment card fraud when that person:
- (1) Knowingly obtains or pays for property by using a payment card:
 - (A) Without the effective consent of the person to whom the payment card was issued;
 - (B) After the payment card was revoked or cancelled;
 - (C) When the payment card was never issued; or
 - (D) ~~For the employee’s or contractor’s own purposes, when the payment card was issued to or provided to an employee or contractor for the employer’s purposes;~~ For the person’s own purposes, when the person is an employee or contractor and the payment card was issued to the person for the employer’s purposes; and
 - (2) In fact, the property has a value of \$500,000 or more.
- (b) *Second Degree.* A person commits second degree payment card fraud when that person:
- (1) Knowingly obtains or pays for property by using a payment card:
 - (A) Without the effective consent of the person to whom the payment card was issued;
 - (B) After the payment card was revoked or cancelled;
 - (C) When the payment card was never issued; or

- (D) ~~For the employee's or contractor's own purposes, when the payment card was issued to or provided to an employee or contractor for the employer's purposes;~~ For the person's own purposes, when the person is an employee or contractor and the payment card was issued to the person for the employer's purposes; and
 - (2) In fact, the property has a value of \$50,000 or more.
- (c) *Third Degree.* A person commits third degree payment card fraud when that person:
 - (1) Knowingly obtains or pays for property by using a payment card:
 - (A) Without the effective consent of the person to whom the payment card was issued;
 - (B) After the payment card was revoked or cancelled;
 - (C) When the payment card was never issued; or
 - (D) ~~For the employee's or contractor's own purposes, when the payment card was issued to or provided to an employee or contractor for the employer's purposes;~~ For the person's own purposes, when the person is an employee or contractor and the payment card was issued to the person for the employer's purposes; and
 - (2) In fact, the property has a value of \$5,000 or more.
- (d) *Fourth Degree.* A person commits fourth degree payment card fraud when that person:
 - (1) Knowingly obtains or pays for property by using a payment card:
 - (A) Without the effective consent of the person to whom the payment card was issued;
 - (B) After the payment card was revoked or cancelled;
 - (C) When the payment card was never issued; or
 - (D) ~~For the employee's or contractor's own purposes, when the payment card was issued to or provided to an employee or contractor for the employer's purposes;~~ For the person's own purposes, when the person is an employee or contractor and the payment card was issued to the person for the employer's purposes; and
 - (2) In fact, the property has a value of \$500 or more.
- (e) *Fifth Degree.* A person commits fifth degree payment card fraud when that person:
 - (1) Knowingly obtains or pays for property by using a payment card:
 - (A) Without the effective consent of the person to whom the payment card was issued; or
 - (B) After the payment card was revoked or cancelled; or
 - (C) When the payment card was never issued; or
 - (D) ~~For the employee's or contractor's own purposes, when the payment card was issued to or provided to an employee or contractor for the employer's purposes;~~ For the person's own purposes, when the person is an employee or contractor and the

payment card was issued to the person for the employer's purposes; and

(2) In fact, the property has any value.

~~(f) [Jurisdiction. An offense under this section shall be deemed to be committed in the District of Columbia, regardless of whether the offender is physically present in the District of Columbia, if:~~

~~(1) The person to whom a payment card was issued or in whose name the payment card was issued is a resident of, or located in, the District of Columbia;~~

~~(2) The person who was the target of the offense is a resident of, or located in, the District of Columbia at the time of the fraud;~~

~~(3) The loss occurred in the District of Columbia; or~~

~~(4) Any part of the offense takes place in the District of Columbia.]~~

(g) (f) *Penalties.*

(1) First degree payment card fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(2) Second degree payment card fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(3) Third degree payment card fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(4) Fourth degree payment card fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(5) Fifth degree payment card fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(h) (g) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “effective consent,” “person,” “property,” “payment card,” “revoked or canceled” and “value” have the meaning specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2203. Check Fraud.

(a) *First Degree.* A person commits first degree check fraud when that person:

(1) Knowingly obtains or pays for property by using a check;

(2) With intent that the check not be honored in full upon presentation to the bank or depository institution drawn upon; and

(3) The amount of loss to the check holder is, in fact, \$~~2,500~~ 5,000 or more.

(b) *Second Degree.* A person commits second degree check fraud when that person:

(1) Knowingly obtains or pays for property by using a check;

(2) With intent that the check not be honored in full upon presentation to the bank or depository institution drawn upon; and

(3) The amount of loss to the check holder is, in fact, ~~any amount~~ \$500 or more.

(c) *Third Degree.* A person commits second degree check fraud when that person:

(1) Knowingly obtains or pays for property by using a check;

- (2) With intent that the check not be honored in full upon presentation to the bank or depository institution drawn upon; and
- (3) The amount of loss to the check holder is, in fact, any amount.

(d) *Penalties.*

- (1) First degree check fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) Second degree check fraud is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(e) *Definitions.* The terms “intent,” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; **and** the terms “check,” “**person,**” and “property” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2204. Forgery.

(a) *First Degree.* A person commits first degree forgery when that person:

- (1) Commits third degree forgery; and
- (2) The written instrument appears to be, in fact:
 - (A) A stock certificate, bond, or other instrument representing an interest in or claim against a corporation or other organization of its property;
 - (B) A public record, or instrument filed in a public office or with a public servant;
 - (C) A written instrument officially issued or created by a public office, public servant, or government instrumentality;
 - (D) A deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status; or
 - (E) A written instrument having a value of ~~\$25,000~~ **50,000** or more.

(b) *Second Degree.* A person commits second degree forgery when that person:

- (1) Commits third degree forgery; and
- (2) The written instrument appears to be, in fact:
 - (A) A token, fare card, public transportation transfer certificate, or other article manufactured for use as a symbol of value in place of money for the purchase of property or services;
 - (B) A prescription of a duly licensed physician or other person authorized to issue the same for any controlled substance or other instrument or devices used in the taking or administering of controlled substances for which a prescription is required by law; or
 - (C) A written instrument having a value of ~~\$2,500~~ **5,000** or more.

(c) *Third Degree.* A person commits third degree forgery when that person:

- (1) Knowingly does any of the following:

- (A) Alters a written instrument without authorization, and the written instrument is reasonably adapted to deceive a person into believing it is genuine;
- (B) Makes or completes a written instrument
 - (i) That appears ~~to be~~:
 - (I) To be the act of another who did not authorize that act, or
 - (II) To have been made or completed at a time or place or in a numbered sequence other than was in fact the case, or
 - (III) To be a copy of an original when no such original existed; and
 - (ii) The written instrument is reasonably adapted to deceive a person into believing the written instrument is genuine; or
- (C) Transmits or otherwise uses a written instrument that was made, signed, or altered in a manner specified in subparagraphs (c)(1)(A) or (c)(1)(B);
- (2) With intent to:
 - (A) Obtain property of another by deception; or
 - (B) Harm another person.
- (d) *Penalties.*
 - (1) First degree forgery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree forgery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree forgery is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* The terms “intent,” and “knowingly” having the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and~~ the terms “deception,” “**person**,” “property,” “property of another,” “value,” and “written instrument” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2205. Identity Theft.

- (a) *First Degree.* A person commits identity theft when that person:
 - (1) Commits fifth degree identity theft; and
 - (2) The value of the property sought to be obtained or the amount of the payment intended to be avoided or the financial injury, whichever is greater, in fact, is \$500,000 or more.
- (b) *Second Degree.* A person commits second degree identity theft when that person:
 - (1) Commits fifth degree identity theft; and
 - (2) The value of the property sought to be obtained or the amount of the payment intended to be avoided or the financial injury, whichever is greater, in fact, is \$50,000 or more.
- (c) *Third Degree.* A person commits third degree identity theft when that person:

- (1) Commits fifth degree identity theft; and
 - (2) The value of the property sought to be obtained or the amount of the payment intended to be avoided or the financial injury, whichever is greater, in fact, is \$5,000 or more.
- (d) *Fourth Degree.* A person commits fourth degree identity theft when that person:
- (1) Commits fifth degree identity theft; and
 - (2) The value of the property sought to be obtained or the amount of the payment intended to be avoided or the financial injury, whichever is greater, in fact, is \$500 or more.
- (e) *Fifth Degree.* A person commits fifth degree identity theft when that person:
- (1) Knowingly creates, possesses, or uses personal identifying information belonging to or pertaining to another person;
 - (2) Without that other person's effective consent; and
 - (3) With intent to use the personal identifying information to:
 - (A) Obtain property of another by deception;
 - (B) Avoid payment due for any property, fines, or fees by deception;or
 - (C) Give, sell, transmit, or transfer the information to a third person to facilitate the use of the identifying information by that third person to obtain property by deception.
- ~~(f) *Jurisdiction.* The offense of identity theft shall be deemed to be committed in the District of Columbia, regardless of whether the offender is physically present in the District of Columbia, if:~~
- ~~(1) The person whose personal identifying information is improperly obtained, created, possessed, or used is a resident of, or located in, the District of Columbia; or~~
 - ~~(2) Any part of the offense takes place in the District of Columbia.~~
- (g) *Unit of Prosecution and Calculation of Time to Commence Prosecution of Offense.* Creating, possessing, or using a person's personal identifying information in violation of this section shall constitute a single course of conduct for purposes of determining the applicable period of limitation under D.C. Code § 23-113(b). The applicable time limitation under § 23-113 shall not begin to run until after the day after the course of conduct has been completed, or the ~~victim~~ **person whose identifying information was taken, possessed, or used** knows, or reasonably should have known, of the identity theft, whichever occurs earlier.
- (h) Penalties.
- (1) First degree identity theft is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree identity theft is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree identity theft is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree identity theft is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree identity theft is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (i) *Police reports.* The Metropolitan Police Department shall make a report of each complaint of identity theft and provide the complainant with a copy of the report.
- (j) *Definitions.* The terms “intent,” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207, and the terms “consent,” “deception,” “effective consent,” “financial injury,” “~~person,~~” “personal identifying information,” “possess,” “property,” “property of another,” and “value” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2206. Identity Theft Civil Provisions.

- (a) When a person is convicted, adjudicated delinquent, or found not guilty by reason of insanity of identity theft, the court may issue such orders as are necessary to correct any District of Columbia public record that contains false information as a result of a violation of RCC § 22E-~~2206-2205~~.
- (b) In all other cases, a person who alleges that he or she is a victim of identity theft may petition the court for an expedited judicial determination that a District of Columbia public record contains false information as a result of a violation of RCC § 22E-~~2206-2205~~. Upon a finding of clear and convincing evidence that the person was a victim of identity theft, the court may issue such orders as are necessary to correct any District of Columbia public record that contains false information as a result of a violation of RCC § 22E-~~2206-2205~~.
- (c) Notwithstanding any other provision of law, District of Columbia agencies shall comply with orders issued under subsection (a) of this section within 30 days of issuance of the order.
- (d) For the purposes of this section, the term “District of Columbia public record” means any document, book, photographic image, electronic data recording, paper, sound recording, or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of public business by any officer or employee of the District of Columbia.

RCC § 22E-2207. Unlawful Labeling of a Recording.

- (a) *First Degree.* A person commits first degree unlawful labeling of a recording when that person:
 - (1) Knowingly possesses sound recordings or audiovisual recordings ~~that, in fact number 100 or more, and~~ that do not clearly and conspicuously disclose the true name and address of the manufacturer on their labels, covers, or jackets; ~~that, in fact, number 100 or more;~~
 - (2) With intent to sell or rent the sound recordings or audiovisual recordings.
- (b) *Second Degree.* A person commits second degree unlawful labeling of a recording when that person:
 - (1) Knowingly possesses ~~1~~ **one** or more sound recordings or audiovisual recordings that does not clearly and conspicuously disclose the true name and address of the manufacturer on its label, cover, or jacket;
 - (2) With intent to sell or rent the sound recordings or audiovisual recordings.

- (c) *Exclusions from Liability.* ~~Nothing in this section shall be construed to prohibit A person does not commit an offense under this section when that person:~~
- (1) ~~Any broadcaster who, in connection with, or as part of, a radio or television broadcast transmission, or for the purposes of archival preservation,~~ transfers any sounds or images recorded on a sound recording or audiovisual ~~work~~ recording in connection with, or as part of, a radio or television broadcast transmission, or for the purposes of archival preservation,; or
 - (2) ~~Any person who, in his own home, for his own personal use,~~ transfers any sounds or images recorded on a sound recording or audiovisual ~~work~~ recording, in his or her own home for his or her own personal use.
- (d) *Penalties.*
- (1) First degree unlawful labeling of a recording is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree unlawful labeling of a recording is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Forfeiture.* Upon conviction under this section, the court may, in addition to the penalties provided by this section, order the forfeiture and destruction or other disposition of all sound recordings, audiovisual recordings, and equipment used, or attempted to be used, in violation of this section.
- (f) *Definitions.*
- (1) The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and~~ the terms “audiovisual recording,” “court,” “image,” “person,” “possess,” and “sound recording” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~
 - (2) In this section, the term “manufacturer” means the person who affixes, or authorizes the affixation of, sounds or images to a sound recording or audiovisual recording.

RCC § 22E-2208. Financial Exploitation of a Vulnerable Adult or Elderly Person.

- (a) *First Degree.* A person commits first degree financial exploitation of a vulnerable adult or elderly person when that person:
- (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
 - (2) The value of the property or ~~of~~ the amount of the financial injury, whichever is greater, in fact, is \$500,000 or more
- (b) *Second Degree.* A person commits second degree financial exploitation of a vulnerable adult or elderly person when that person:
- (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
 - (2) The value of the property or ~~of~~ the amount of the financial injury, whichever is greater, in fact, is \$50,000 or more

- (c) *Third Degree.* A person commits third degree financial exploitation of a vulnerable adult or elderly person when that person:
- (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
 - (2) The value of the property or ~~of~~ the amount of the financial injury, whichever is greater, in fact, is \$5,000 or more
- (d) *Fourth Degree.* A person commits fourth degree financial exploitation of a vulnerable adult or elderly person when that person:
- (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
 - (2) The value of the property or ~~of~~ the amount of the financial injury, whichever is greater, in fact, is \$500 or more
- (e) *Fifth Degree.* A person commits fifth degree financial exploitation of a vulnerable adult or elderly person when that person:
- (1) Knowingly takes, obtains, transfers, or exercises control over property of another;
 - (A) With consent of an owner obtained by undue influence;
 - (B) With recklessness as to the fact that the owner is a vulnerable adult or elderly person; and
 - (C) With intent to deprive an owner of the property; or
 - (2) Commits theft, extortion, forgery, fraud, **payment card fraud, check fraud,** or identity theft with recklessness that the complainant is a vulnerable adult or elderly person.
- (f) *Penalties.*
- (1) First degree financial exploitation of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree financial exploitation of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree financial exploitation of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree financial exploitation of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree financial exploitation of a vulnerable adult or elderly person is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Restitution.* In addition to the penalties set forth in subsection (g) of this section, a person shall make restitution, before the payment of any fines or civil penalties.
- (h) *Definitions.*
- (1) The terms “intent,” “knowingly,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; **and** the terms ~~“coercion,”~~ “consent,” “deprive,” “elderly person,” “financial injury,” “owner,” **“person,”** “property,”

“property of another,” “~~undue influence,~~” “value,” and “vulnerable adult,” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

~~(2) The term “undue influence” means: mental, emotional, or physical coercion that overcomes the free will or judgment of a vulnerable adult or elderly person and causes the vulnerable adult or elderly person to act in a manner that is inconsistent with his or her financial, emotional, mental, or physical well-being.~~

RCC § 22E-2209. Financial Exploitation of a Vulnerable Adult or Elderly Person Civil Provisions.

- (a) *Additional Civil Penalties.* In addition to other penalties provided by law, a person who violates RCC § 22E-2208 shall be subject to the following civil penalties:
- (1) A fine of up to \$5,000 per violation;
 - (2) Revocation of all permits, certificates, or licenses issued by the District of Columbia authorizing the person to provide services to vulnerable adults or elderly persons; and
 - (3) A temporary or permanent injunction.
 - (4) Restitution under RCC § 22E-2208 shall be paid before the payment of any fines or civil penalties under this section.
- (b) *Petition for Injunctive Relief and Protections.* Whenever the Attorney General or the United States Attorney has reason to believe that a person has engaged in financial exploitation of a vulnerable adult or elderly person in violation of RCC § 22E-2208, the Attorney General or the United States Attorney may petition the court, which may be by ex parte motion and without notice to the person, for 1 or more of the following:
- (1) A temporary restraining order;
 - (2) A temporary injunction;
 - (3) An order temporarily freezing the person’s assets; or
 - (4) Any other relief the court deems just.
- (c) *Standard for Court Review of Petition.* The court may grant an ex parte motion authorized by subsection (b) of this section without notice to the person against whom the injunction or order is sought if the court finds that facts offered in support of the motion establish that:
- (1) There is a substantial likelihood that the person committed financial exploitation of a vulnerable adult or elderly person;
 - (2) The harm that may result from the injunction or order is clearly outweighed by the risk of harm to the vulnerable adult or elderly person if the injunction or order is not issued; and
 - (3) If the Attorney General or the United States Attorney has petitioned for an order temporarily freezing assets, the order is necessary to prevent dissipation of assets obtained in violation of RCC § 22E-2208.
- (d) *Effect of Order to Temporarily Freeze Assets.*

- (1) An order temporarily freezing assets without notice to the person pursuant to paragraph (b)(3) and subsection (c) of this section shall expire on a date set by the court, not later than 14 days after the court issues the order unless, before that time, the court extends the order for good cause shown.
- (2) A person whose assets were temporarily frozen under paragraph (d)(1) of this section may move to dissolve or modify the order after notice to the Attorney General for the United States Attorney. The court shall hear and decide the motion or application on an expedited basis.
- (e) *Appointment of Receiver or Conservator.* The court may issue an order temporarily freezing the assets of the vulnerable adult or elderly person to prevent dissipation of assets; provided, that the court also appoints a receiver or conservator for those assets. The order shall allow for the use of assets to continue care for the vulnerable adult or elderly person, and can only be issued upon a showing that a temporary injunction or temporary restraining order authorized by this section would be insufficient to safeguard the assets, or with the consent of the vulnerable adult or elderly person or his or her legal representative.

RCC § 22E-2210. Trademark Counterfeiting.

- (a) *First Degree.* A person commits first degree trademark counterfeiting when that person:
 - (1) Knowingly manufactures for ~~commercial~~ sale, possesses with intent to sell, or offers to sell, property bearing or identified by a counterfeit mark; and
 - (2) In fact, the property consists of 100 or more items, or the property, ~~in fact,~~ has a total retail value of \$5,000 or more.
- (b) *Second Degree.* A person commits second degree trademark counterfeiting when that person:
 - (1) Knowingly manufactures for commercial sale, possesses with intent to sell, or offers to sell, property bearing or identified by a counterfeit mark; and
 - (2) In fact, the property has any value.
- (c) *Exclusion from Liability.* ~~Nothing in this section shall be construed to prohibit A~~ **person does not commit an offense under this section if that person uses ~~of~~ a** trademarks **in a manner** that ~~are~~ **is** legal under civil law.
- (d) *Seizure and Disposal of Seized Items Bearing a Counterfeit Mark.*
 - (1) Any items bearing a counterfeit mark shall be seized, and all personal property, including, ~~but not limited to,~~ any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this chapter may be seized, by any law enforcement officer, including any designated civilian employee of the Metropolitan Police Department, in accordance with the procedures established by § 48-905.02.
 - (2) All seized personal property shall be subject to forfeiture pursuant to the standards and procedures set forth in D.C. Law 20-278.

- (3) Upon the request of the owner of the trademark, service mark, trade name, label, term, picture, seal, word, or advertisement, all seized items bearing a counterfeit mark shall be released to the owner of the trademark, service mark, trade name, label, term, picture, seal, word, or advertisement for destruction or disposition.
- (4) If the owner of the trademark, service mark, trade name, label, term, picture, seal, word, or advertisement does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the owner of the of the trademark, service mark, trade name, label, term, picture, seal, word, or advertisement consents to another disposition.
- (e) *Evidence of State or Federal Registration.* Any state or federal certificate of registration of any trademark, service mark, trade name, label, term, picture, seal, word, or advertisement shall be prima facie evidence of the facts stated therein.
- (f) *Penalties.*
 - (1) First degree trademark counterfeiting is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree trademark counterfeiting is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.*
 - ~~(1) The term “counterfeit mark” as used in this section means: any trademark, service mark, trade name, label, term, picture, seal, word, or advertisement or any combination of these adopted or used by a person to identify such person’s goods or services and which is lawfully filed for record in the Office of the Secretary of State of any state or which the exclusive right to reproduce is guaranteed under the laws of the United States or the District of Columbia, that is used without the permission of the owner of the trademark, service mark, trade name, label, term, picture, seal, word, or advertisement.~~
 - ~~(2) The term “retail value” means the actor’s regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the actor’s regular selling price of the finished product on or in which the component would be utilized.~~
 - (3) The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “**counterfeit mark**,” “possesses,” “property,” and “**retail value**” ~~has~~ have the meanings specified in RCC § 22E-701.

Chapter 23. Extortion.

RCC § 22E-2301. Extortion.

- (a) *First Degree.* A person commits first degree extortion when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) With the consent of an owner;
 - (3) The consent being obtained by an **explicit or implicit** coercive threat; and

- (4) With intent to deprive ~~that~~ an owner of the property; and
 - (5) The property, in fact, has a value of more than \$500,000.
- (b) *Second Degree.* A person commits second degree extortion when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) With the consent of an owner;
 - (3) The consent being obtained by an explicit or implicit coercive threat;
 - (4) With intent to deprive ~~that~~ an owner of the property; and
 - (5) The property, in fact, has a value of more than \$50,000.
- (c) *Third Degree.* A person commits third degree extortion when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) With the consent of an owner;
 - (3) The consent being obtained by an explicit or implicit coercive threat;
 - (4) With intent to deprive ~~that~~ an owner of the property; and
 - (5) The property, in fact, has a value of more than \$5,000.
- (d) *Fourth Degree.* A person commits fourth degree extortion when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) With the consent of an owner;
 - (3) The consent being obtained by an explicit or implicit coercive threat;
 - (4) With intent to deprive ~~that~~ an owner of the property; and
 - (5) The property, in fact, has a value of more than \$500.
- (e) *Fifth Degree.* A person commits fifth degree extortion when that person:
 - (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
 - (2) With the consent of an owner;
 - (3) The consent being obtained by an explicit or implicit coercive threat;
 - (4) With intent to deprive ~~that~~ an owner of the property; and
 - (5) The property, in fact, has any value.
- (f) *Penalties.*
 - (1) First degree extortion is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree extortion is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree extortion is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree extortion is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree extortion is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.* The terms “knowingly,” and “intent,” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and~~ the terms “consent,” “coercive threat,” “deprive,” “**person**,” “property,” “property of another,” and “value” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

Chapter 24. Stolen Property.

RCC § 22E-2401. Possession of Stolen Property.

- (a) *First Degree.* A person commits first degree possession of stolen property when that person:
 - (1) Knowingly buys or possesses property;
 - (2) With intent that the property be stolen;
 - (3) With intent to deprive an owner of the property; and
 - (4) The property, in fact, has a value of \$500,000 or more.
- (b) *Second Degree.* A person commits second degree possession of stolen property when that person:
 - (1) Knowingly buys or possesses property;
 - (2) With intent that the property be stolen;
 - (3) With intent to deprive an owner of the property; and
 - (4) The property, in fact, has a value of \$50,000 or more.
- (c) *Third Degree.* A person commits third degree possession of stolen property when that person:
 - (1) Knowingly buys or possesses property;
 - (2) With intent that the property be stolen;
 - (3) With intent to deprive an owner of the property; and
 - (4) The property, in fact, has a value of \$5,000 or more.
- (d) *Fourth Degree.* A person commits fourth degree possession of stolen property when that person:
 - (1) Knowingly buys or possesses property;
 - (2) With intent that the property be stolen;
 - (3) With intent to deprive an owner of the property; and
 - (4) The property, in fact, has a value of \$500 or more.
- (e) *Fifth Degree.* A person commits fifth degree possession of stolen property when that person:
 - (1) Knowingly buys or possesses property;
 - (2) With intent that the property be stolen;
 - (3) With intent to deprive an owner of the property.
- (f) *Penalties.*
 - (1) First degree possession of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree possession of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree possession of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree possession of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (g) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and the terms “deprive,” “person,” “possess,” “property,” and “value” have the meanings specified in RCC § 22E-701; and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2402. Trafficking of Stolen Property.

- (a) *First Degree.* A person commits first degree trafficking of stolen property when that person:
- (1) Knowingly buys or possesses property on two or more separate occasions;
 - (2) With intent that the property be stolen;
 - (3) With intent to sell, pledge as consideration, or trade the property; and
 - (4) ~~The property~~ Total property trafficked, in fact, has a value of \$500,000 or more.
- (b) *Second Degree.* A person commits second degree trafficking of stolen property when that person:
- (1) Knowingly buys or possesses property on two or more separate occasions;
 - (2) With intent that the property be stolen;
 - (3) With intent to sell, pledge as consideration, or trade the property; and
 - (4) ~~The property~~ Total property trafficked, in fact, has a value of \$50,000 or more.
- (c) *Third Degree.* A person commits third degree trafficking of stolen property when that person:
- (1) Knowingly buys or possesses property on two or more separate occasions;
 - (2) With intent that the property be stolen;
 - (3) With intent to sell, pledge as consideration, or trade the property; and
 - (4) ~~The property~~ Total property trafficked, in fact, has a value of \$5,000 or more.
- (d) *Fourth Degree.* A person commits fourth degree trafficking of stolen property when that person:
- (1) Knowingly buys or possesses property on two or more separate occasions;
 - (2) With intent that the property be stolen;
 - (3) With intent to sell, pledge as consideration, or trade the property; and
 - (4) ~~The property~~ Total property trafficked, in fact, has a value of \$500 or more.
- (e) *Fifth Degree.* A person commits fifth degree trafficking of stolen property when that person:
- (1) Knowingly buys or possesses property on two or more separate occasions;
 - (2) With intent that the property be stolen;
 - (3) With intent to sell, pledge as consideration, or trade the property.
- (f) *Penalties.*
- (1) First degree trafficking of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree trafficking of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (3) Third degree trafficking of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (4) Fourth degree trafficking of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (5) Fifth degree trafficking of stolen property is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and the terms “person,” “possess,” “property,” and “value” have the meanings specified in RCC § 22E-701; and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2403. Alteration of a Motor Vehicle Identification Number.

- (a) *First Degree.* A person commits first degree alteration of a vehicle identification number when that person:
 - (1) Knowingly alters an identification number of a motor vehicle or motor vehicle part;
 - (2) With intent to conceal or misrepresent the identity of the motor vehicle or motor vehicle part; ~~and~~
 - (3) ~~And~~ ~~†~~ The value of such motor vehicle or motor vehicle part, in fact, is ~~\$2,500~~ 5,000 or more.
- (b) *Second Degree.* A person commits second degree alteration a vehicle identification number when that person:
 - (1) Knowingly alters an identification number of a motor vehicle or motor vehicle part;
 - (2) With intent to conceal or misrepresent the identity of the motor vehicle or motor vehicle part.
- (c) *Penalties.*
 - (1) First degree alteration of a vehicle identification number is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree alteration of a vehicle identification number is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “intent,” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; ~~and the terms “identification number,” “person,” “motor vehicle,” and “value” have the meanings specified in RCC § 22E-701; and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2404. Alteration of Bicycle Identification Number.

- (a) *Offense.* A person commits alteration of a bicycle identification numbers when that person:
 - (1) Knowingly alters an identification number of a bicycle or bicycle part;

- (2) With intent to conceal or misrepresent the identity of the bicycle or bicycle part.
- (b) *Penalty.* Alteration of a bicycle identification number is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.*
 - (1) The terms “bicycle,” “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “person” has the meaning specified in RCC § 22E-7012002; and
 - (2) In this section, the terms “bicycle” and “identification number” have has the meanings provided in section D.C. Code § 50-1609.

Chapter 25. Property Damage.

RCC § 22E-2501. Arson.

- (a) *First Ddegree.* A person commits first degree arson when that person:
 - (1) Knowingly starts a fire, or causes an explosion, that damages or destroys a dwelling or building;
 - (2) Reckless as to the fact that a person who is not a participant in the crime is present in the dwelling or building; and
 - (3) The fire or explosion, in fact, causes death or serious bodily injury to any person who is not a participant in the crime.
- (b) *Second Ddegree.* A person commits second degree arson when that person:
 - (1) Knowingly starts a fire, or causes an explosion, that damages or destroys a dwelling or building;
 - (2) Reckless as to the fact that the fact that a person who is not a participant in the crime is present in the dwelling or building.
- (c) *Third Ddegree.* A person commits third degree arson when that person knowingly starts a fire, or causes an explosion, that damages or destroys a dwelling or building.
- (d) *Affirmative Ddefenses.* It is an affirmative defense to liability under subsection (c) of this section ~~the commission of third degree arson, which the actor must prove by a preponderance of the evidence,~~ that the person actor, in fact, has a valid blasting permit issued by the District Of Columbia Fire and Emergency Medical Services Department, and complied with all the rules and regulations governing the use of such a permit.
- (e) *Penalties.*
 - (1) First degree arson is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree arson is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree arson is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (f) *Definitions.* The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the term “in fact” has the meaning specified in RCC § 22E-207; the terms “actor,” “building,” “dwelling,” “person,” and “serious bodily

injury” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2502. Reckless Burning.

- (a) *Offense.* A person commits reckless burning when that person:
 - (1) Knowingly starts a fire or causes an explosion;
 - (2) With recklessness as to the fact that the fire or explosion damages or destroys a dwelling or building.
- (b) *Affirmative ~~D~~efenses.* It is an affirmative defense to ~~liability under this section the commission of reckless burning, which the actor must prove by a preponderance of the evidence,~~ that the ~~person actor,~~ in fact, has a valid blasting permit issued by the District Of Columbia Fire and Emergency Medical Services Department, and complied with all the rules and regulations governing the use of such a permit.
- (c) *Penalties.* Reckless burning is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “knowingly” and “recklessness” have the meanings specified in RCC § 22E-206; ~~and the terms “actor,” “building,” and “dwelling,” and “person” have the meanings specified in RCC § 22E-701; and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2503. Criminal Damage to Property.

- (a) *First ~~D~~egree.* A person commits first degree criminal damage to property when that person:
 - (1) Knowingly damages or destroys the property of another;
 - (2) Without the effective consent of an owner; and
 - (3) In fact, the amount of damage is \$500,000 or more.
- (b) *Second ~~D~~egree.* A person commits second degree criminal damage to property when that person:
 - (1) Knowingly damages or destroys the property of another;
 - (2) Without the effective consent of an owner; and
 - (3) In fact, the amount of damage is \$50,000 or more.
- (c) *Third ~~D~~egree.* A person commits third degree criminal damage to property when that person:
 - (1) ~~Either~~: Knowingly damages or destroys the property of another;
 - (A) Without the effective consent of an owner; and
 - (B) In fact:
 - (i) The amount of damage is \$5,000 or more;
 - (ii) The property is a cemetery, grave, or other place for the interment of human remains; or
 - (iii) The property is a place of worship or a public monument;
 - ~~(2) Or:~~ Recklessly damages or destroys property;
 - (A) Knowing that it is the property of another;

- (B) Without the effective consent of an owner; and
 - (C) In fact, the amount of damage is \$50,000 or more.
- (d) *Fourth Degree*. A person commits fourth degree criminal damage to property when that person:
 - (1) Recklessly damages or destroys property;
 - (2) Knowing that it is the property of another;
 - (3) Without the effective consent of an owner; and
 - (4) In fact, the amount of damage is \$500 or more.
- (e) *Fifth Degree*. A person commits fifth degree criminal damage to property when that person:
 - (1) Recklessly damages or destroys property;
 - (2) Knowing that it is the property of another;
 - (3) Without the effective consent of an owner; and
 - (4) In fact, there is damage to the property.
- (f) *Penalties*.
 - (1) First degree criminal damage to property is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree criminal damage to property is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree criminal damage to property is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree criminal damage to property is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree criminal damage to property is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions*. The terms “knowingly,” and “recklessly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “amount of damage,” “effective consent,” “property,” “property of another,” and “owner,” and “person” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

RCC § 22E-2504. Criminal Graffiti.

- (a) *Offense*. A person commits criminal graffiti when that person:
 - (1) Knowingly places any inscription, writing, drawing, marking, or design on the property of another;
 - (2) Without the effective consent of an owner.
- (b) *Penalties*. Criminal graffiti is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions*. The term “knowingly” has the meaning specified in RCC § 22E-206; the terms “effective consent,” “owner,” “person,” “property,” and “property of another” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

Chapter 26. Trespass.

RCC § 22E-2601. Trespass.

- (a) *First degree.* ~~Except as provided in subsection (d) of this section,~~ A person commits first degree trespass when that person:
- (1) Knowingly enters or remains in a dwelling, or part thereof;
 - (2) Without a privilege or license to do so under civil law.
- (b) *Second degree.* ~~Except as provided in subsection (d) of this section,~~ A person commits second degree trespass when that person:
- (1) Knowingly enters or remains in a building, or part thereof;
 - (2) Without a privilege or license to do so under civil law.
- (c) *Third degree.* ~~Except as provided in subsection (d) of this section,~~ A person commits third degree trespass when that person:
- (1) Knowingly enters or remains in or on land, a watercraft, or a motor vehicle, or part thereof;
 - (2) Without a privilege or license to do so under civil law.
- (d) *Exclusions from liability.*
- ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- (1) A person ~~does not commit an offense shall not be subject to prosecution~~ under this section ~~by for~~ violating ~~on of~~ a District of Columbia Housing Authority barring notice, unless the barring notice ~~is was~~ lawfully issued pursuant to ~~the District of Columbia Municipal Regulations 14-DCMR-§ 9600 et seq.,~~ on an objectively reasonable basis.
- (2) A person ~~does not commit an offense shall not be subject to prosecution~~ under this section for conduct constituting a violation of D.C. Code § 35-252, Failure to pay established fare or to present valid transfer.
- (e) *Permissive inference.* ~~In a trial determining a violation of this section,~~ a factfinder may, but is not required to, infer that a person lacks a privilege or license to enter or remain in or on a location that:
- (1) Is otherwise vacant;
 - (2) Shows signs of a forced entry; and
 - (3) Is either:
 - (A) Secured in a manner that reasonably conveys that it is not to be entered; or
 - (B) Displays signage that is reasonably visible prior to or outside the location's points of entry, and that sign says "no trespassing" or similarly indicates that a person may not enter.
- ~~(f) *Jury trial.*~~
- ~~(1) A defendant charged with a violation or an inchoate violation of this section in a location that is owned or occupied by a government, government agency, or government-owned corporation may demand a~~

~~jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

~~(2) A defendant charged with a violation or an inchoate violation of this section based on a violation of a District of Columbia Housing Authority barring notice may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~

(f) *Penalties.*

(1) First degree trespass is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(2) Second degree trespass is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(3) Third degree trespass is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(a) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “building,” ~~“court,”~~ “dwelling,” ~~“person,”~~ and “motor vehicle” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

Chapter 27. Burglary.

RCC § 22E-2701. Burglary.

(a) *First degree.* An actor commits first degree burglary when that actor:

(1) Reckless as to the fact that a person who is not a participant in the burglary is inside ~~and directly perceives the actor~~ or is entering with the actor;

(2) Knowingly and fully enters or surreptitiously remains in a dwelling, or part thereof;

(3) Without a privilege or license to do so under civil law;

(4) With intent to commit inside ~~one +~~ or more District ~~offenses~~ ~~crimes~~ ~~that is, in fact, an offense under Subtitle II of this title or a predicate property offense involving bodily injury, a sexual act, a sexual contact, confinement, loss of property, or damage to property.~~

(b) *Second degree.* An actor commits second degree burglary when that actor:

(1) Knowingly and fully enters or surreptitiously remains in:

(A) A dwelling, or part thereof, without a privilege or license to do so under civil law; or

(B) A building, or part thereof, without a privilege or license to do so under civil law:

(i) That is not open to the general public at the time of the offense;

(ii) Reckless as to the fact that a person who is not a participant in the burglary is inside and directly perceives the actor or is entering with the actor;

(2) With intent to commit inside ~~one +~~ or more District ~~offense~~ ~~crimes~~ ~~that is, in fact, an offense under Subtitle II of this title or a predicate property~~

~~offense involving bodily injury, a sexual act, a sexual contact, confinement, loss of property, or damage to property.~~

(c) *Third degree.* An actor commits third degree burglary when that actor:

- (1) Knowingly and fully enters or surreptitiously remains in:
 - (A) A building or business yard, or part thereof, ~~without a privilege or license to do so under civil law;~~
 - (B) That is not open to the general public at the time of the offense;
- (2) Without a privilege or license to do so under civil law;
- (3) With intent to commit inside ~~one~~ ⁴ or more District ~~offenses~~ ^{crimes} ~~that is, in fact, an offense under Subtitle II of this title or a predicate property offense involving bodily injury, a sexual act, a sexual contact, confinement, loss of property, or damage to property.~~

(d) *Penalties.*

- (1) First degree burglary is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) Second degree burglary is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (3) Third degree burglary is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (4) *Penalty enhancements.* In addition to the general penalty enhancements under this title, the penalty classification for this offense is increased by one class when the actor knowingly holds or carries on the actor's person a dangerous weapon or imitation firearm while entering or surreptitiously remaining in the location.

(e) *Definitions.*

- (1) The terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “actor,” ~~“bodily injury”~~ “building,” “business yard,” “dangerous weapon,” “dwelling,” “imitation firearm,” “open to the general public,” and “person” ~~“property,” “sexual act,” and “sexual contact”~~ have the meanings specified in RCC § 22E-701 ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~
- (2) In this section, the term “predicate property offense” means:
 - (A) Theft under RCC § 22E-2101;
 - (B) Unauthorized Use of Property under RCC § 22E-2102;
 - (C) Unauthorized Use of a Motor Vehicle under RCC § 22E-2103;
 - (D) Extortion under RCC § 22E-2301;
 - (E) Arson under RCC § 22E-2501;
 - (F) Reckless Burning under RCC § 22E-2502; or
 - (G) Criminal Damage to Property under RCC § 22E-2503.

RCC § 22E-2702. Possession of Tools to Commit Property Crime.

(a) *Offense.* A person commits possession of tools to commit property crime when that person:

- (1) Knowingly possesses a tool, or tools, designed or specifically adapted for picking locks, cutting chains, cutting glass, bypassing an electronic security system, or bypassing a locked door;
- (2) With intent to use the tool or tools to commit ~~a~~ one or more District offenses that is, in fact: ~~crime involving the trespass, misuse, taking, or damage of property.~~
 - (A) Theft under RCC § 22E-2101;
 - (B) Unauthorized Use of Property under RCC § 22E-2102;
 - (C) Unauthorized Use of a Motor Vehicle under RCC § 22E-2103;
 - (D) Shoplifting under RCC § 22E-2301;
 - (E) Alteration of Motor Vehicle Identification Number under RCC § 22E-2403;
 - (F) Alteration of Bicycle Identification Number under RCC § 22E-2404;
 - (G) Arson under RCC § 22E-2501;
 - (H) Criminal Damage to Property under RCC § 22E-2503;
 - (I) Criminal Graffiti under RCC § 22E-2504;
 - (J) Trespass under RCC § 22E-2601; or
 - (K) Burglary under RCC § 22E-2701.
- (b) *No attempt liability offense.* The general attempt provision in RCC § 22E-301 does not apply to ~~It is not an offense to attempt to commit the offense described in~~ this section.
- (c) *Penalties.* Possession of tools to commit property crime is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; the terms “person,” “possesses,” and “property” have the meanings specified in RCC § 22E-701; ~~and the term “person” has the meaning specified in RCC § 22E-2002.~~

SUBTITLE IV. OFFENSES AGAINST GOVERNMENT OPERATION.

Chapter 34. Government Custody.

RCC § 22E-3401. Escape from a Correctional Facility or Officer.

- (a) *First degree.* A person commits first degree escape from a correctional facility or officer when that person:
 - (1) In fact, is subject to a court order that authorizes the person’s confinement in a correctional facility, ~~or~~ secure juvenile detention facility, ~~or a cellblock operated by the United States Marshals Service; and~~ ~~or~~
 - (2) Knowingly, without the effective consent of the Mayor, the Director of the Department of Corrections, ~~or~~ the Director of the Department of Youth Rehabilitation Services, ~~or the United States Marshals Service,~~ leaves the

- correctional facility, ~~or~~ juvenile detention facility, or cellblock operated by the United States Marshals Service.
- (b) *Second degree.* ~~Except as provided in subsection (d) of this section,~~ a person commits second degree escape from an institution or officer when that person:
- (1) In fact, is in the lawful custody of a law enforcement officer of the District of Columbia or of the United States; and
 - (2) Knowingly, without the effective consent of the law enforcement officer, leaves custody.
- (c) *Third degree.* A person commits third degree escape from an institution or officer when that person:
- (1) In fact, is subject to a court order that authorizes the person's confinement in a correctional facility or halfway house; and
 - (2) Knowingly, without the effective consent of the Mayor, the Director of the Department of Corrections, or the Director of the Department of Youth Rehabilitation Services:
 - (A) Fails to return to the correctional facility or halfway house;
 - (B) Fails to report to the correctional facility or halfway house; or
 - (C) Leaves a halfway house.
- (d) *Exclusions from liability.* A person ~~does not commit an offense shall not be subject to prosecution~~ under subsection (b) of this section when that person is within a correctional facility, juvenile detention facility, or halfway house.
- (e) *Penalties.*
- (1) First degree escape from a correctional facility or officer is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree escape from a correctional facility or officer is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree escape from a correctional facility or officer is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) *Consecutive Sentencing.* If the person is serving a sentence of secure confinement at the time escape from a correctional facility or officer is committed, the sentence for the offense shall run consecutive to the sentence that is being served at the time of the offense.
- (f) *Definitions.*
- (1) The term “knowingly” has the meaning specified in RCC § 22E-206; “in fact” has the meaning specified in RCC § 22E-207; and the terms “correctional facility,” “effective consent,” “halfway house,” “law enforcement officer,” and “secured juvenile detention facility” have the meanings specified in RCC § 22E-701.
 - (2) In this section, ~~the term~~ “custody” means full submission after an arrest or substantial physical restraint after an arrest.

RCC § 22E-3402. Tampering with a Detection Device.

- (a) *Offense.* A person commits tampering with a detection device when that person:
- (1) Knows ~~the person he or she~~ is required to wear a detection device while:
 - (A) Subject to a District of Columbia protection order;
 - (B) On pretrial release in a District of Columbia case;
 - (C) On presentence or predisposition release in a District of Columbia case;
 - (D) Committed to the Department of Youth Rehabilitation Services or incarcerated, in a District of Columbia case; or
 - (E) On supervised release, probation, or parole, in a District of Columbia ~~criminal~~ case; and
 - (2) ~~Intentionally~~ **Purposely**:
 - (A) Removes the detection device or allows an unauthorized person to do so; or
 - (B) Interferes with the ~~emission or detection operation~~ of the detection device or allows an unauthorized person to do so.
- (b) *Use of Confidential Information.* ~~The restriction on divulging detection device information from the Pretrial Services Agency for the District of Columbia under D.C. Code § 23-1303(d) shall not apply to this offense.~~
- (c) *Jurisdiction.* ~~An offense under this section shall be deemed to be committed in the District of Columbia, regardless of whether the offender is physically present in the District of Columbia.~~
- (d) *Penalties.* ~~Tampering with a detection device is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.~~
- (e) *Definitions.* ~~The terms “intentionally” and “knows” and “purposely” have the meanings specified in RCC § 22E-206; and the terms “detection device,” and “protection order” have the meanings specified in RCC § 22E-701.~~

RCC § 22E-3403. Correctional Facility Contraband.

- (a) *First degree.* ~~Except as provided in subsection (c) of this section,~~ A person commits first degree correctional facility contraband when that person:
- (1) With intent that an item be received by someone confined to a correctional facility or secure juvenile detention facility:
 - (A) Knowingly brings the item to a correctional facility or secure juvenile detention facility;
 - (B) Without the effective consent of the Mayor, the Director of the Department of Corrections, or the Director of the Department of Youth Rehabilitation Services; and
 - (C) The item, in fact, is Class A contraband; or
 - (2) In fact, is someone confined to a correctional facility or secure juvenile detention facility and:
 - (A) Knowingly possesses an item in a correctional facility or secure juvenile detention facility;
 - (B) Without the effective consent of the Mayor, the Director of the Department of Corrections, or the Director of the Department of Youth Rehabilitation Services; and

- (C) The item, in fact, is Class A contraband.
- (b) *Second degree.* ~~Except as provided in subsection (c) of this section,~~ A person commits second degree correctional facility contraband when that person:
 - (1) With intent that an item be received by someone confined to a correctional facility or secure juvenile detention facility:
 - (A) Knowingly brings the item to a correctional facility or secure juvenile detention facility;
 - (B) Without the effective consent of the Mayor, the Director of the Department of Corrections, or the Director of the Department of Youth Rehabilitation Services; and
 - (C) The item, in fact, is Class B contraband; or
 - (2) In fact, is someone confined to a correctional facility or secure juvenile detention facility and:
 - (A) Knowingly possesses an item in a correctional facility or secure juvenile detention facility;
 - (B) Without the effective consent of the Mayor, the Director of the Department of Corrections, or the Director of the Department of Youth Rehabilitation Services; and
 - (C) The item, in fact, is Class B contraband.
- (c) *Exclusions from liability.*
 - ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - ~~(2) A person does not commit an offense shall not be subject to prosecution under this section for possessing when that person possesses:~~
 - (1) ~~(A)~~ A portable electronic communication device, in the course of a legal visit;
 - (2) ~~(B)~~ A controlled substance that is prescribed to that person and medically necessary to have immediately or constantly accessible; or
 - (3) ~~(C)~~ A syringe, needle, or other medical device, that is medically necessary to have immediately or constantly available.
- (d) *Detainment authority.* If there is probable cause to suspect a person of committing correctional facility contraband under paragraph (a)(1) or (b)(1) of this section, the warden or director of a correctional facility may detain the person for not more than 2 hours, pending surrender to the Metropolitan Police Department or a law enforcement agency acting pursuant to D.C. Code § 10-509.01.
- (e) *Penalties.*
 - (1) First degree correctional facility contraband is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree correctional facility contraband is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (f) *Definitions.* The terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “Class A contraband,” “Class B contraband,” “correctional

facility,” “effective consent,” “law enforcement officer,” “possesses,” and “secure juvenile detention facility” have the meanings specified in RCC § 22E-701.

SUBTITLE V. PUBLIC ORDER AND SAFETY OFFENSES.

Chapter 41. Weapon Offenses and Related Provisions.

RCC § 22E-4101. Possession of a Prohibited Weapon or Accessory.

- (a) *First degree.* A person commits first degree possession of a prohibited weapon or accessory when that person:
 - (1) Knowingly possesses a firearm or explosive;
 - (2) Reckless as to the fact that the firearm or explosive is:
 - (A) An assault weapon;
 - (B) Machine gun;
 - (C) Sawed-off shotgun; or
 - (D) A restricted explosive.
- (b) *Second degree.* A person commits second degree possession of a prohibited weapon or accessory when that person:
 - (1) Knowingly possesses a firearm accessory;
 - (2) Reckless as to the fact that the firearm accessory is:
 - (A) A firearm silencer;
 - (B) A bump stock; or
 - (C) A large capacity ammunition feeding device.
- ~~(c) Exclusions from liability. Notwithstanding subsections (a) and (b):~~
 - ~~(1) A person shall not be subject to prosecution under this section for possession of prohibited weapon or accessory when voluntarily surrendering the object.~~
 - ~~(2) A person does not commit an offense shall not be subject to prosecution under this section when that if the person satisfies the meets any of the exception criteria in RCC § 22E-4118.~~
- ~~(d) Merger. A conviction for possession of a prohibited weapon or accessory does not merge with any other offense arising from the same course of conduct.~~
- ~~(d) Affirmative defense.~~ It is an affirmative defense to liability under this section that the person possesses the item while, in fact, voluntarily surrendering the item pursuant to District or federal law.
- (e) *Penalties.*
 - (1) First degree possession of a prohibited weapon or accessory is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of a prohibited weapon or accessory is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - ~~(3) Merger. A conviction for possession of a prohibited weapon or accessory does not merge with any other offense arising from the same course of conduct.~~

(f) *Definitions.*

- (1) The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms ~~“ammunition,” “assault weapon,” “bump stock,” “court,”~~ “large capacity ammunition feeding device,” ~~“machine gun,”~~ “possesses,” and “restricted explosive” ~~and “sawed-off shotgun”~~ have the meanings specified in RCC § 22E-701.
- (2) ~~In this section, the terms “ammunition,” “assault weapon,” “machine gun,” and “sawed-off shotgun” have the meanings specified in D.C. Code § 7-2501.01.~~

RCC § 22E-4102. Carrying a Dangerous Weapon.

(a) *First degree.* A person commits first degree carrying a dangerous weapon when that person:

- (1) Knowingly possesses:
 - (A) A firearm other than a pistol;
 - (B) A pistol, without a license to carry under RCC § 22E-4110; or
 - (C) A restricted explosive;
- (2) ~~(B)~~ The firearm, pistol, or restricted explosive is conveniently accessible and within reach; and
- (3) The person is in a location that is:
 - (A) Not the person’s home, place of business, or land; and
 - (B) In fact:
 - (i) Within 300 feet of the property line of a school, college, university, public swimming pool, public playground, public youth center, public library, or children’s day care center; and
 - (ii) Displays clear and conspicuous signage indicating that firearms or explosives are prohibited.

(b) *Second degree.* A person commits second degree carrying a dangerous weapon ~~or~~ when that person:

- (1) Knowingly possesses:
 - (A) A firearm other than a pistol;
 - (B) A pistol, without a license to carry under RCC § 22E-4110; or
 - (C) A restricted explosive;
- (2) ~~(B)~~ The firearm, pistol, or restricted explosive is conveniently accessible and within reach; and
- (3) The person is in a location that is ~~(A)~~ not the person’s home, place of business, or land.

(c) *Third degree.* A person commits third degree carrying a dangerous weapon when that person:

- (1) Knowingly possesses a dangerous weapon;
- (2) The dangerous weapon is ~~(B)~~ conveniently accessible and within reach; and

- (3) ~~The person is (A)~~ in a location that is not the person’s home, place of business, or land; and
- (4) With intent to use the weapon, anytime in the future or if any condition is met, in a manner that is likely to cause death or serious bodily injury to another person.
- (d) *Exclusions from liability.*
 - ~~(1) A person shall not be subject to prosecution under this section for carrying a dangerous weapon when that person is voluntarily surrendering the object.~~
 - ~~(2) Notwithstanding subsections (a), (b), and (c) of this section, A person does not commit an offense shall not be subject to prosecution under this section, when that if the person satisfies the meets any of the exception criteria in RCC § 22E-4118.~~
- (e) *Affirmative defense.* It is an affirmative defense to liability under this section that the person possesses the item while, in fact, voluntarily surrendering the item pursuant to District or federal law.
- (f) *Penalties.*
 - (1) First degree carrying a dangerous weapon is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree carrying a dangerous weapon is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree carrying a dangerous weapon is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (g) *Definitions.*
 - (1) The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “building,” “dangerous weapon,” “firearm,” ~~“pistol,”~~ ~~“restricted explosive,”~~ and “serious bodily injury,” ~~and “stun gun”~~ have the meanings specified in RCC § 22E-701.
 - (2) ~~In this section, the terms “pistol” has the meaning specified in D.C. Code § 7-2501.01.~~

RCC § 22E-4103. Possession of a Dangerous Weapon with Intent to Commit Crime.

- (a) *First degree.* An actor commits first degree possession of a dangerous weapon with intent to commit crime when that actor:
 - (1) Knowingly possesses an ~~item object~~ designed to explode or produce uncontained combustion;
 - (2) With intent to use the object to commit a criminal harm that is, in fact:
 - (A) An offense ~~against persons~~ under Subtitle II of this title; or
 - (B) An offense ~~against property~~ under Subtitle III of this title.
- (b) *Second degree.* An actor commits second degree possession of a dangerous weapon with intent to commit crime when that actor:
 - (1) Knowingly possesses:
 - (A) A dangerous weapon; or

- (B) An imitation firearm;
- (2) With intent to use the imitation firearm or dangerous weapon to commit a criminal harm that is, in fact:
 - (A) An offense ~~against persons~~ under Subtitle II of this title; or
 - (B) Burglary under RCC § 22E-2701.
- ~~(c) No attempt offense. It is not an offense to attempt to commit the offense described in this section.~~
- (c) *Penalties.*
 - (1) First degree possession of a dangerous weapon with intent to commit crime is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of a dangerous weapon with intent to commit crime is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; and the terms “dangerous weapon,” “imitation firearm,” and “possesses” have the meanings specified in RCC § 22E-701.

RCC § 22E-4104. Possession of a Dangerous Weapon During a Crime.

- (a) *First degree.* An actor commits first degree possession of a dangerous weapon during a crime when that actor:
 - (1) Knowingly possesses a firearm;
 - (2) In furtherance of and while committing what, in fact, is:
 - (A) An offense against persons under Subtitle II of this title;
 - (B) Arson under RCC § 22E-2501; **or**
 - (C) Reckless burning under RCC § 22E-2502; ~~or~~
 - ~~(D) Burglary under RCC § 22E-2701.~~
- (b) *Second degree.* An actor commits second degree possession of a dangerous weapon during a crime when that actor:
 - (1) Knowingly possesses:
 - (A) An imitation firearm; or
 - (B) A dangerous weapon;
 - (2) In furtherance of and while committing what, in fact, is:
 - (A) An offense against persons under Subtitle II of this title; or
 - (B) Burglary under RCC § 22E-2701.
- ~~(c) No attempt offense. It is not an offense to attempt to commit the offense described in this section.~~
- (c) *Penalties.*
 - (1) First degree possession of a dangerous weapon during a crime is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of a dangerous weapon during a crime is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (d) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; and the terms “dangerous weapon,” “firearm,” “imitation firearm,” and “possesses” have the meanings specified in RCC § 22E-701.

RCC § 22E-4105. Possession of a Firearm by an Unauthorized Person.

- (a) *First degree.* An actor commits first degree possession of a firearm by an unauthorized person when that actor:
- (1) Knowingly possesses a firearm; and
 - (2) Has a prior conviction for what is, in fact, ~~:(A) A District offense that is a crime of violence other than conspiracy; or (B) a comparable offense in another jurisdiction or under prior District law.~~
- (b) *Second degree.* An actor commits second degree possession of a firearm by an unauthorized person when that actor:
- (1) Knowingly possesses a firearm; and
 - (2) In addition:
 - (A) Has a prior conviction for what is, in fact:
 - (i) A District offense that is currently punishable by imprisonment for a term exceeding ~~one~~ ~~+~~ year, or a comparable offense ~~in another jurisdiction~~, within ~~the last~~ 10 years;
 - (ii) ~~An offense under Chapter 41 of this subtitle~~ ~~gun offense~~, or a comparable offense ~~in another jurisdiction~~, within ~~the last~~ 5 years; or
 - (iii) An intrafamily offense, as defined in D.C. Code § 16-1001(8), that requires as an element confinement, ~~nonconsensual~~ sexual conduct, bodily injury, or threats, or a comparable offense, ~~in another jurisdiction~~ within ~~the last~~ 5 years.
 - (B) Is a fugitive from justice; or
 - (C) Is, in fact, subject to a court order that:
 - (i) Requires the actor to relinquish possession of any firearms or ammunition, or to not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the order is in effect; and
 - (ii) Restrains the ~~actor person~~ from assaulting, harassing, stalking, or threatening ~~the petitioner or~~ any ~~other~~ person ~~named in the order~~, and:
 - (I) Was issued after a hearing of which the ~~actor person~~ received actual notice, and at which the ~~actor person~~ had an opportunity to participate; or
 - (II) Remained in effect after the ~~actor person~~ on failed to appear for a hearing of which the ~~actor person~~ received actual notice.

~~(c) Exclusions from liability.~~

- ~~(1) A person shall not be subject to prosecution under this section for possession of a firearm when voluntarily surrendering the object.~~
- ~~(2) A person shall not be subject to prosecution for violation of subsection (a) or subparagraph (b)(2)(A) of this section and a repeat offender penalty enhancement in RCC § 22E-606 for the same conduct.~~
- (c) *Affirmative defense.* It is an affirmative defense to liability under this section that the person possesses the item while, in fact, voluntarily surrendering the item pursuant to District or federal law.
- (d) *Penalties.*
- (1) First degree possession of a firearm by an unauthorized person is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of a firearm by an unauthorized person is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - ~~(3) *No repeat offender enhancement.* A person shall not be subject to prosecution for violation of subsection (a) or subparagraph (b)(2)(A) of this section and a repeat offender penalty enhancement in RCC § 22E-606 for the same conduct.~~
- (e) *Definitions.*
- (1) The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “comparable offense,” [“crime of violence,”] “firearm,” ~~“gun offense,”~~ and “possess” have the meanings specified in RCC § 22E-701.
 - (2) In this section, the term “fugitive from justice” means a person who has an open arrest warrant for:
 - (A) Fleeing to avoid prosecution for a crime;
 - (B) Fleeing to avoid giving testimony in a criminal proceeding; or
 - (C) Escape from a correctional facility or officer under RCC § 22E-3401.
 - (3) In this section, the term “prior conviction” means a final order, by any court of the District of Columbia, a state, a federally-recognized Indian tribe, or the United States and its territories, that enters judgment of guilt for a criminal offense. The term “prior conviction” does not include:
 - (A) An adjudication of juvenile delinquency;
 - (B) A conviction that is subject to successful completion of a diversion program or probation under D.C. Code § 48-904.01(e);
 - ~~(C) A conviction that is subject to a conditional plea agreement;~~
 - (C) A conviction that has been vacated, sealed, or expunged; or
 - (D) A conviction for which a person has been granted clemency or a pardon.

RCC § 22E-4106. Negligent Discharge of Firearm.

- (a) *Offense.* A person commits negligent discharge of a firearm when that person:
- (1) Negligently discharges a firearm outside a licensed firing range; and

- (2) In fact, does not have:
 - (A) A written permit issued by the Metropolitan Police Department; or
 - (B) Other permission under District or federal law.
- (b) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (c) *Penalties.* Negligent discharge of a firearm is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The term “negligently” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms ~~“Attorney General” and~~ “firearm” has~~ve~~ the meanings specified in RCC § 22E-701.

RCC § 22E-4107. Alteration of a Firearm Identification Mark.

- (a) *Offense.* A person commits alteration of a firearm identification mark when that person:
 - (1) Knowingly alters or removes from a firearm:
 - (A) The name of the maker;
 - (B) The model;
 - (C) The manufacturer’s number; or
 - (D) Other identifying mark;
 - (2) With intent to conceal or misrepresent the identity of the firearm.
- (b) *Penalties.* Alteration of a firearm identification mark is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.*
 - (1) The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the term “firearm” has the meaning specified in RCC § 22E-701.~~.; and~~
 - (2) ~~In this section,~~ the term “manufacturer” has the meaning specified in D.C. Code § 7-2505.03.

RCC § 22E-4108. Civil Provisions for Prohibitions of Firearms on Public or Private Property.

- (a) The District may prohibit or restrict the possession of firearms on its property and any property under its control.
- (b) Private persons or entities owning property in the District may prohibit or restrict the possession of firearms on their property,~~provided that this subsection shall not apply to a~~ by any person other than a law enforcement officer ~~when while that law enforcement officer~~ is lawfully authorized to enter onto ~~the~~ private property.
- (c) *Definitions.* The terms “firearm,” “law enforcement officer,” ~~“possession,”~~ and “property” have the meanings specified in RCC § 22E-701.

RCC § 22E-4109. Civil Provisions for Lawful Transportation of a Firearm or Ammunition.

- (a) Notwithstanding any other District law, a person shall be permitted to transport a firearm or ammunition under the following circumstances:
 - (1) The person is not otherwise prohibited by law from possessing a firearm or ammunition;
 - (2) The transportation of the firearm or ammunition is:
 - (A) For any lawful purpose;
 - (B) From any place where the person may lawfully possess the firearm or ammunition;
 - (C) To any place where the person may lawfully possess the firearm or ammunition;
 - (3) When the firearm is transported in a motor vehicle, the firearm is unloaded, and:
 - (A) If the motor vehicle has a compartment separate from the passenger ~~area compartment~~, neither the firearm nor any ammunition is conveniently accessible and within reach from the passenger ~~area compartment~~ of the motor vehicle; or
 - (B) If the motor vehicle does not have a compartment separate from the passenger ~~area compartment~~, the firearm and any ammunition is in a locked container other than the glove compartment or console; and
 - (2) When the firearm is not transported in a motor vehicle, the firearm is:
 - (A) Unloaded;
 - (B) Inside a locked container; and
 - (C) Separate from any ammunition.
- (b) *Definitions.*
 - (1) The terms ~~“ammunition,”~~ “firearm,” “possess,” and “motor vehicle” have the meanings specified in RCC § 22E-701.
 - (2) ~~In this section, the term “ammunition” has the meaning specified in D.C. Code § 7-2501.01.~~

RCC § 22E-4110. Civil Provisions on Issuance of a License to Carry a Pistol.

- (a) The Chief of the Metropolitan Police Department may, upon the application of a person having a bona fide residence or place of business within the District of Columbia, or of a person having a bona fide residence or place of business within the United States and a license to carry a pistol concealed upon ~~their his-or-her~~ person issued by the lawful authorities of any state or subdivision of the United States, issue a license to such person to carry a pistol concealed upon ~~their his-or-her~~ ~~her~~ person within the District of Columbia for not more than 2 years from the date of issue, if it appears that ~~the person he-or-she~~ is a suitable person to be so licensed.

- (b) A non-resident who lives in a state ~~or subdivision of the United States~~ that does not require a license to carry a concealed pistol may apply to the Chief of the Metropolitan Police Department for a license to carry a pistol concealed upon ~~their his or her~~ person within the District of Columbia for not more than 2 years from the date of issue, provided that ~~the person he or she~~ meets the same reasons and requirements set forth in subsection (a) of this section.
- (c) For any person issued a license pursuant to this section, or renewed pursuant to D.C. Code § 7-2509.03, the Chief of the Metropolitan Police Department may limit the geographic area, circumstances, or times of the day, week, month, or year in which the license is effective, and may subsequently limit, suspend, or revoke the license as provided under D.C. Code § 7-2509.05.
- (d) The application for a license to carry shall be on a form prescribed by the Chief of the Metropolitan Police Department and shall bear the name, address, description, photograph, and signature of the licensee.
- (e) Except as provided in D.C. Code § 7-2509.05(b), any person whose application has been denied or whose license has been limited or revoked may, within 15 days after the date of the notice of denial or notice of intent, appeal to the Concealed Pistol Licensing Review Board established pursuant to D.C. Code § 7-2509.08.
- (f) *Definitions.* ~~In this section,~~ the term “pistol” has the meaning specified in ~~D.C. Code § 7-2501.01 RCC § 22E-701.~~

RCC § 22E-4111. Unlawful Sale of a Pistol.

- (a) *Offense.* A person commits unlawful sale of a pistol when that person:
 - (1) Knowingly sells a pistol;
 - (2) Reckless as to the fact that the purchaser is:
 - (A) Not of sound mind;
 - (B) Prohibited from possessing a firearm by RCC § 22E-4105; or
 - (C) Under 21 years of age, except when the purchaser is a child or ward of the seller.
- (b) *Penalties.* Unlawful sale of a pistol is a Class ☒ crime, subject to a maximum term of imprisonment of ☒, a maximum fine of ☒, or both.
- (c) *Definitions.*
 - (1) The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “firearm,” ~~“pistol,”~~ and “possess” have the meanings specified in RCC § 22E-701.
 - (2) ~~In this section, the term “pistol” has the meaning specified in D.C. Code § 7-2501.01.~~

RCC § 22E-4112. Unlawful Transfer of a Firearm.

- (a) *Offense.* A person commits unlawful transfer of a firearm when that person:
 - (1) Knowingly, as the seller of a firearm, delivers the firearm to a purchaser:
 - (A) ~~In~~ Fewer than 10 days ~~after from~~ the date of the purchase ~~thereof~~, except in the case of sales to law enforcement officers; or

- (B) In a manner other than as specified in RCC § 22E-4109;
- (2) Knowingly, as the purchaser of a firearm, fails to sign in duplicate and deliver to the seller a statement containing the purchaser's full name, address, occupation, date and place of birth, the date of purchase, the caliber, make, model, and manufacturer's number of the firearm and a statement that the purchaser is not prohibited from possessing a firearm by RCC § 22E-4105;
- (3) Knowingly, as the seller of a firearm, fails to sign and attach ~~their his or her~~ address to the purchaser's statement described in paragraph (a)(2) of this section and deliver ~~one~~ ~~+~~ copy to such person or persons as the Chief of the Metropolitan Police Department may designate, and retain the other copy for 6 years; or
- (4) Knowingly sells an assault weapon, machine gun, or sawed-off shotgun:
 - (A) To any person other than the persons designated in RCC § 22E-4118(b) as entitled to possess the same; or
 - (B) Without prior permission to make such sale obtained from the Chief of the Metropolitan Police Department.
- (b) *Exclusions from liability.* ~~A person does not commit an offense under this section shall not apply to sales made by when that person is a wholesale dealers selling a firearm to a licensed dealers licensed under RCC § 22E-4114.~~
- (c) *Penalties.* Unlawful transfer of a firearm is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.*
 - (1) The term “knowingly” has the meaning specified in RCC § 22E-206; the terms ~~“assault weapon,”~~ “firearm” ~~and~~ “law enforcement officer,” ~~“machine gun,” and “sawed-off shotgun”~~ have the meanings specified in RCC § 22E-701.
 - (2) ~~In this section, the terms “assault weapon,” “machine gun,” and “sawed-off shotgun” have the meanings specified in D.C. Code § 7-2501.01; and the term “manufacturer” has the meaning specified in D.C. Code § 7-2505.03.~~

RCC § 22E-4113. Sale of Firearm Without a License.

- (a) *Offense.* An actor commits ~~unlawful~~ sale of a firearm without a license when that actor knowingly:
 - (1) As a retail dealer:
 - (A) Sells, exposes for sale, or possesses with intent to sell, a firearm; and
 - (B) ~~Without a Is-not~~ licensed under RCC § 22E-4114 ~~to engage in such activity~~; or
 - (2) As a wholesale dealer, sells, or ~~has in the actor's~~ ~~possessions~~ with intent to sell, a firearm to any person other than a ~~licensed~~ dealer ~~licensed under RCC § 22E-4114.~~

- (b) *Penalties*. Unlawful sale of a firearm without a license is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions*.
- (1) The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms ~~“assault weapon,”~~ “firearm” and ~~“machine gun,”~~ “possess” ~~“sawed-off shotgun”~~ have the meanings specified in RCC § 22E-701.
 - (2) ~~In this section, the terms “assault weapon,” “machine gun,” and “sawed-off shotgun” have the meanings specified in D.C. Code § 7-2501.01.~~

RCC § 22E-4114. Civil Provisions for Licenses of Firearms Dealers.

- (a) The Mayor of the District of Columbia may, in ~~their~~ ~~his or her~~ discretion, grant licenses and may prescribe the form thereof, effective for not more than ~~one~~ ~~1~~ year ~~from after the~~ date of issue, permitting the licensee to sell a firearm at retail within the District of Columbia.
- (b) Any license issued pursuant to this section shall require the licensee ~~holder~~ to follow the following licensure requirements:
- (1) ~~Firearm sales~~ ~~The business~~ shall ~~occur~~ ~~be carried on~~ only in the building designated in the license.
 - (2) The license or a copy thereof, certified by the issuing authority, shall be clearly and conspicuously displayed on the premises.
 - (3) No firearm shall be sold if the purchaser is:
 - (A) Not of sound mind;
 - (B) Prohibited from possessing a firearm ~~under~~ ~~by~~ RCC § 22E-4105;
~~or~~
 - (C) Under 21 years of age; or
 - (D) ~~Unknown to the seller, unless the purchaser~~ presents clear evidence of the purchaser’s identity.
 - (4) No assault weapon, machine gun, or sawed-off shotgun shall be sold to any person other than the persons ~~specified~~ ~~designated~~ in RCC § 22E-4118(b) as entitled to possess the same, and then only after permission to make such sale has been obtained from the Chief of the Metropolitan Police Department.
 - (5) A true record shall be made in a book kept for ~~that~~ ~~the~~ purpose, the form of which may be prescribed by the Mayor, of all firearms in the possession of the licensee. ~~, which said~~ The record shall contain the date of purchase, the caliber, make, model, and manufacturer’s number of ~~each~~ ~~the~~ weapon, to which shall be added, when sold, the date of sale.
 - (6) A true record in duplicate shall be made ~~of every firearm sold, said record to be made~~ in a book kept for ~~that~~ ~~the~~ purpose, the form of which may be prescribed by the Mayor of the District of Columbia, ~~of every firearm sold~~. The record ~~and~~ shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale; the name, address, occupation, ~~color~~, and place of birth of the purchaser; so far as applicable, the caliber, make, model, and

manufacturer's number of the weapon; and a statement by the purchaser that the purchaser is not a person prohibited from possessing a firearm ~~under by~~ RCC § 22E-4105. A copy of ~~the said~~ record shall, within 7 days ~~after the sale~~, be forwarded by mail to the Chief of the Metropolitan Police Department and the other copy retained by the seller for 6 years ~~after the sale~~.

- (7) No firearm or imitation firearm or placard advertising the sale ~~of a firearm or imitation firearm thereof~~ shall be clearly and conspicuously displayed on the premises, where it can readily be seen from outside.
- (c) Any license shall be subject to forfeiture for any violation of the requirements specified in subsection (b) of this section.
- (d) Any license issued pursuant to this section shall be issued by the Metropolitan Police Department as a Public Safety endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47 of the D.C. Code ~~{(§ 47-2851.01 et seq.)}~~.
- (e) *Definitions.*
 - (1) The terms ~~“assault weapon,”~~ “building,” “firearm,” “imitation firearm,” ~~“machine gun,”~~ and “possess” ~~and “sawed-off shotgun”~~ have the meanings specified in RCC § 22E-701;
 - (2) ~~In this section, the terms “assault weapon,” “machine gun,” and “sawed-off shotgun” have the meanings specified in D.C. Code § 7-2501.01; and the term “manufacturer” has the meaning specified in D.C. Code § 7-2505.03.~~

RCC § 22E-4115. Unlawful Sale of a Firearm by a Licensed Dealer.

- (a) *Offense.* A person commits unlawful sale of a firearm by a licensed dealer when that person:
 - (1) In fact, is a licensed dealer under RCC § 22E-4114; and
 - (2) Recklessly violates a licensure requirement specified in RCC § 22E-4114(b) ~~(1) — (b)(6)~~.
- (b) *Penalties.* Unlawful sale of a firearm by a licensed dealer is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The term “recklessly” has the meaning specified in RCC § 22E-206.

RCC § 22E-4116. Use of False Information for Purchase or Licensure of a Firearm.

- (a) *Offense.* A person commits use of false information for purchase or licensure of a firearm when that person knowingly gives false information or false evidence of identity to:
 - (1) Purchase a firearm; or
 - (2) Apply for a license to carry a pistol under RCC § 22E-4110.
- (b) *Penalties.* Use of false information for purchase or licensure of a firearm is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

(c) *Definitions.*

- (1) The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms “firearm” ~~has and “pistol” have~~ the meanings specified in RCC § 22E-701.
- (2) ~~In this section, “pistol” has the meaning specified in D.C. Code § 7-2501.01.~~

RCC § 22E-4117. Civil Provisions for Taking and Destruction of Dangerous Articles.

- (a) A dangerous article unlawfully owned, possessed, or carried is hereby declared to be a nuisance.
- (b) When a police officer, in the course of a lawful arrest or lawful search, or when a designated civilian employee of the Metropolitan Police Department in the course of a lawful search, discovers a dangerous article ~~that which~~ the officer reasonably believes is a nuisance under subsection (a) of this section the officer shall take it into ~~their his or her~~ possession and surrender it to the Property Clerk of the Metropolitan Police Department.

(c) *Hearing procedures.*

- (1) Within 30 days after the date of such surrender, any person may file in the office of the Property Clerk of the Metropolitan Police Department a written claim for possession of such dangerous article. Upon the expiration of ~~the such~~ period, the Property Clerk shall notify each ~~such~~ claimant, by registered mail addressed to the address shown on the claim, of the time and place of a hearing to determine which claimant, if any, is entitled to possession of such dangerous article. ~~The Such~~ hearing shall be held within 60 days after the date of such surrender.
- (2) At the hearing the Property Clerk shall hear and receive evidence with respect to the claims filed under paragraph (c)(1) of this section. Thereafter ~~the Property Clerk he or she~~ shall determine which claimant, if any, is entitled to possession of such dangerous article and shall reduce ~~their his or her~~ decision to writing. The Property Clerk shall send a true copy of ~~the such~~ written decision to each claimant by registered mail addressed to the last known address of ~~the such~~ claimant.
- (3) Any claimant may, within 30 days after the day on which the copy of ~~the such~~ decision was mailed to such claimant, file an appeal in the Superior Court of the District of Columbia. If the claimant files an appeal, ~~the claimant he or she~~ shall at the same time give written notice thereof to the Property Clerk. If the decision of the Property Clerk is so appealed, the Property Clerk shall not dispose of the dangerous article while ~~the such~~ appeal is pending and, if the final judgment is entered by ~~the such~~ court, ~~the Property Clerk he or she~~ shall dispose of ~~the such~~ dangerous article in accordance with the judgment of ~~the such~~ court. The court is authorized to determine which claimant, if any, is entitled to possession of the dangerous article and to enter a judgment ordering a disposition of ~~the such~~ dangerous article consistent with subsection (e) of this section.

- (4) If there is no ~~such~~ appeal, or if ~~the such~~ appeal is dismissed or withdrawn, the Property Clerk shall dispose of ~~the such~~ dangerous article in accordance with subsection (e) of this section.
- (5) The Property Clerk shall make no disposition of a dangerous article under this section, whether in accordance with ~~their his-or-her~~ own decision or in accordance with the judgment of the court, until the United States Attorney for the District of Columbia certifies to the Property Clerk that ~~the such~~ dangerous article will not be needed as evidence.
- (d) A person claiming a dangerous article shall be entitled to its possession only if:
 - (1) ~~The claimant such person~~ shows, on satisfactory evidence, that ~~the such~~ person is the owner of the dangerous article or is the accredited representative of the owner, and that the ownership is lawful;
 - (2) ~~The claimant such person~~ shows, on satisfactory evidence, that at the time the dangerous article was taken into possession by a police officer or a designated civilian employee of the Metropolitan Police Department, it was not unlawfully owned and was not unlawfully possessed or carried by the claimant or with ~~their his-or-her~~ knowledge or consent; and
 - (3) The receipt of possession by the claimant does not cause the article to be a nuisance. A representative is accredited if ~~the claimant such person~~ has a power of attorney from the owner.
- (e) If a person claiming a dangerous article is entitled to its possession as determined under subsections (c) and (d) of this section, possession of such dangerous article shall be given to ~~the claimant such person~~. If no person so claiming is entitled to its possession as determined under subsections (c) and (d) of this section, or if there ~~is be~~ no claimant, ~~the such~~ dangerous article shall be destroyed. ~~In lieu of such destruction, any such serviceable dangerous article may or, upon order of the Mayor of the District of Columbia, be transferred to and used by any federal or District government law-enforcing agency., and the~~ An agency receiving a dangerous article under this section ~~same~~ shall establish property responsibility and records ~~of these dangerous articles~~.
- (f) The Property Clerk shall not be liable in damages for any action performed in good faith under this section.
- (g) *Definitions.*
 - (1) The terms “bump stock,” ~~“court,”~~ “dangerous weapon,” “firearm,” “large capacity ammunition feeding device,” “owner,” and “restricted explosive” have the meanings specified in RCC § 22E-701.
 - (2) In this section, the term “dangerous article” means:
 - (A) A firearm;
 - (B) A restricted explosive;
 - (C) A firearm silencer;
 - (D) A bump stock;
 - (E) A large capacity ammunition feeding device; ~~or~~
 - ~~(D) A dangerous weapon.~~

RCC § 22E-4118. Exclusions from Liability for Weapon Offenses.

- (a) The exclusions from liability specified in this section apply to the following District ~~offenses crimes~~:
- (1) ~~RCC § 7-2502.01~~, Possession of an Unregistered Firearm, Destructive Device, or Ammunition ~~under RCC § 7-2502.01~~;
 - (2) ~~RCC § 7-2502.15~~, Possession of a Stun Gun ~~under RCC § 7-2502.15~~;
 - (3) ~~RCC § 7-2502.17~~, Carrying an Air or Spring Gun ~~under RCC § 7-2502.17~~;
 - (4) ~~RCC § 7-2509.06~~, Carrying a pistol in an unlawful manner ~~under RCC § 7-2509.06~~;
 - (5) ~~RCC § 22E-4101~~, Possession of a Prohibited Weapon or Accessory ~~under RCC § 22E-4101~~; and
 - (6) ~~RCC § 22E-4102~~, Carrying a Dangerous Weapon ~~under RCC § 22E-4102~~.
- (b) Notwithstanding any other District law, a person ~~does not commit shall not be subject to prosecution for~~ an offense specified in subsection (a) of this section ~~when if~~ that person is:
- (1) A member of the Army, Navy, Air Force, or Marine Corps of the United States;
 - (2) An on-duty member of the National Guard or Organized Reserves;
 - (3) A qualified law enforcement officer as defined in 18 U.S.C. § 926B;
 - (4) A qualified retired law enforcement officer as defined in 18 U.S.C. § 926C, who carries a concealed pistol that is registered under D.C. Code § 7-2502.07 ~~in a location that~~ and is conveniently accessible and within reach;
 - (5) An ~~on-duty~~ licensed special police officer or campus police officer, who possesses or carries a firearm registered under D.C. Code § 7-2502.07 in accordance with D.C. Code § 5-129.02 and all rules promulgated under that section;
 - (6) An ~~on-duty~~ director, deputy director, officer, or employee of the District of Columbia Department of Corrections who possesses or carries a firearm registered under D.C. Code § 7-2502.07;
 - (7) An employee of the District or federal government, who is on duty and acting within the scope of those duties;
 - (8) Lawfully engaging in the business of manufacturing, repairing, or dealing the weapon involved in the offense;
 - (9) Lawfully engaging in the business of shipping or delivering the weapon involved in the offense; or
 - (10) Acting within the scope of authority granted by the Chief of the Metropolitan Police Department or a competent court.
- (c) Notwithstanding any other District law, a person shall not be subject to prosecution for an offense specified in subsection (a) of this section if that person:
- (1) Holds a valid registration certificate issued under D.C. Code § 7-2502.07; and
 - (2) Possesses the registered firearm or ammunition for a firearm of the same caliber while:
 - (A) At the home or place of business designated on the registration certificate;

- (B) Transporting the firearm or ammunition, in accordance with RCC § 22E-4109, to or from:
 - (i) A place of sale;
 - (ii) The person's home or place of business;
 - (iii) A place of repair;
 - (iv) A firearms training and safety class conducted by a firearms instructor; or
 - (v) A lawful recreational firearm-related activity; or
- (C) Transporting the firearm or ammunition for a lawful purpose as expressly authorized by a District or federal statute and in accordance with the requirements of that statute.
- (d) Notwithstanding any other District law, a person **does not commit** ~~shall not be subject to prosecution for~~ an offense specified in subsection (a) of this section **when that person** ~~for~~ **possessing** or **carrying** a firearm while ~~that person is~~ participating in a firearms training and safety class conducted by a firearms instructor.
- (c) *Definitions.*
 - (1) The terms ~~“ammunition,”~~ “firearm,” ~~“firearms instructor,”~~ ~~“pistol,”~~ and “possess” have the meanings specified in RCC § 22E-701.
 - (2) **In this section, the terms “ammunition,” “firearms instructor,” and “pistol” have the meanings specified in D.C. Code § 7-2501.01.**

RCC § 22E-4119. Limitation on Convictions for Multiple Related Weapon Offenses.

- (a) ~~A person may be found guilty of any combination of the following offenses for which the person satisfies the requirements for liability, provided that~~ The court shall not enter a judgment of conviction for more than **one** ~~1~~ of the **following District** offenses based on the same act or course of conduct:
 - (1) ~~RCC § 7-2502.01,~~ Possession of an Unregistered Firearm, Destructive Device, or Ammunition **under RCC § 7-2502.01;**
 - (2) ~~RCC § 7-2502.15,~~ Possession of a Stun Gun **under RCC § 7-2502.15;**
 - (3) ~~RCC § 7-2502.17,~~ Carrying an Air or Spring Gun **under RCC § 7-2502.17;**
 - (4) ~~RCC § 22E-4102,~~ Carrying a Dangerous Weapon **under RCC § 22E-4102;**
 - (5) ~~RCC § 22E-4103,~~ Possession of a Dangerous Weapon with Intent to Commit Crime **under RCC § 22E-4103;** and
 - (6) ~~RCC § 22E-4104,~~ Possession of a Dangerous Weapon During a Crime **under RCC § 22E-4104.**
- (b) ~~A person may be found guilty of any combination of the following offenses for which the person satisfies the requirements for liability, provided that~~ The court shall not enter a judgment of conviction for more than **one** ~~1~~ of the **following District** offenses based on the same act or course of conduct:
 - (1) ~~RCC § 22E-4103,~~ Possession of a Dangerous Weapon with Intent to Commit Crime **under RCC § 22E-4103;**

- (2) ~~RCC § 22E-4104~~, Possession of a Dangerous Weapon During a Crime under RCC § 22E-4104; and
- (3) Any offense ~~against persons~~ under Subtitle II of this title that includes as an element, of any gradation, that the person displayed or used a dangerous weapon.
- (c) Where subsection (a) or (b) of this section prohibits multiple convictions, the court shall enter a judgment of conviction in accordance with the ~~rules and~~ procedures ~~specified established~~ in RCC § 22E-212(d)-(e).
- (d) *Definitions.* The terms “act” ~~and “court”~~ have the meanings specified in RCC § 22E-701.

~~RCC § 22E-4120. Severability.~~

~~If any part of this Chapter is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Chapter.~~

Chapter 42. Breaches of Peace.

RCC § 22E-4201. Disorderly Conduct.

- (a) *Offense.* ~~Except as provided in subsection (b) of this section,~~ a person commits disorderly conduct when that person:
 - (1) In fact, is in a location that is:
 - (A) Open to the general public at the time of the offense; or
 - (B) A communal area of multi-unit housing; and
 - (2) Engages in any of the following conduct:
 - (A) Recklessly, by conduct other than speech, causes any person present to reasonably believe that ~~they are he or she is~~ likely to suffer immediate criminal harm involving bodily injury, taking of property, or damage to property;
 - (B) Purposely commands, requests, or tries to persuade any person present to cause immediate criminal harm involving bodily injury, taking of property, or damage to property, reckless as to the fact that the harm is likely to occur;
 - (C) Purposely directs abusive speech to any person present, reckless as to the fact that such conduct is likely to provoke immediate retaliatory criminal harm involving bodily injury, taking of property, or damage to property; or
 - (D) Knowingly continues or resumes fighting with another person after receiving a law enforcement officer’s order to stop ~~such fighting~~.
- (b) *Exclusions from liability.*
 - ~~(1) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~

- (1) A person ~~does not commit an offense under shall not be subject to prosecution for committing disorderly conduct as provided in~~ subparagraph (a)(2)(A) of this section when the other person present is a law enforcement officer in the course of ~~his or her~~ official duties.
- (2) A person ~~does not commit an offense under shall not be subject to prosecution for committing disorderly conduct as provided in~~ subparagraph (a)(2)(C) of this section when the conduct is directed to or likely to provoke a law enforcement officer in the course of ~~his or her~~ official duties.
- (c) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (d) *Penalties.* Disorderly conduct is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* The terms “knowingly,” “purposely,” and “recklessly,” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms ~~“Attorney General,”~~ “bodily injury,” “law enforcement officer,” “open to the general public,” “property,” and “speech” have the meanings specified in RCC § 22E-701.

RCC § 22E-4202. Public Nuisance.

- (a) *Offense.* ~~Except as provide in subsection (b) of this section,~~ A person commits public nuisance when that person purposely causes significant interruption to:
 - (1) ~~(2)~~ The orderly conduct of a meeting by a District or federal public body;
 - (2) ~~(3)~~ A person’s ~~reasonable~~, quiet enjoyment of ~~their dwelling, his or her residence~~ between 10:00 p.m. and 7:00 a.m., and continues or resumes ~~such~~ the conduct after receiving oral or written notice to stop ~~such conduct; or~~
 - (3) ~~(4)~~ A person’s lawful use of a public conveyance; ~~or~~
 - (4) ~~(1)~~ A ~~lawful~~ religious service, funeral, or wedding, that is, ~~in fact, lawful and~~ in a location that, ~~in fact,~~ is open to the general public at the time of the offense;.

~~(b) Exclusions from liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- (b) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (c) *Penalties.* Public nuisance is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.*
 - (1) The term “purposely,” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms ~~“Attorney General,”~~ “bodily injury,” ~~“dwelling,” “meeting,”~~ “open to the general public,” “property,” ~~“public body,”~~ and “public conveyance” have the meanings specified in RCC § 22E-701.

- (2) In this section, the terms “meeting” and “public body” have the meanings specified in D.C. Code § 2-574.

RCC § 22E-4203. Blocking a Public Way.

- (a) *Offense.* ~~Except as provided in subsection (b) of this section,~~ A person commits blocking a public way when that person:
- (1) Knowingly blocks a street, sidewalk, bridge, path, entrance, exit, or passageway;
 - (2) ~~While~~ on land or in a building that is owned by a government, government agency, or government-owned corporation; and
 - (3) Continues or resumes ~~the blocking such conduct~~ after receiving a law enforcement officer’s order that, in fact, is lawful, to stop ~~such blocking~~.
- ~~(b) Exclusions from liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- (b) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (c) *Penalties.* Blocking a public way is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms ~~“Attorney General,”~~ “blocks,” and “law enforcement officer” have the meanings specified in RCC § 22E-701.

RCC § 22E-4204. Unlawful Demonstration.

- (a) *Offense.* ~~Except as provided in subsection (b) of this section,~~ A person commits unlawful demonstration when that person:
- (1) Knowingly engages in a demonstration;
 - (2) In a location where ~~the such~~ demonstration, in fact, is otherwise unlawful under District or federal law; and
 - (3) Continues or resumes engaging in ~~the demonstration such conduct~~ after receiving a law enforcement order to stop ~~such demonstration~~.
- ~~(b) Exclusions from liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- (b) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- ~~(d) Jury trial. A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (c) *Penalties.* Unlawful demonstration is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (d) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms ~~“Attorney General,” “court,”~~ “demonstration” ~~has~~^{ve} the meanings specified in RCC § 22E-701.

RCC § 22E-4205. Breach of Home Privacy.

- (a) *Offense.* An actor commits breach of home privacy when that actor:
- (1) Knowingly and surreptitiously ~~looks~~^{observes} inside a dwelling, ~~by any means~~[;] and
 - (2) In fact, an occupant of the dwelling would have a reasonable expectation of privacy.
- (b) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (c) *Penalties.* Invasion of home privacy is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” ~~and~~ “dwelling,” ~~“effective consent,”~~ have the meanings specified in RCC § 22E-701.

RCC § 22E-4206. Indecent Exposure.

- (a) *First degree.* An actor commits first degree indecent exposure when that actor:
- (1) Knowingly engages in:
 - (A) A sexual act;
 - (B) Masturbation; or
 - (C) A sexual or sexualized display of the genitals, pubic area, or anus, when there is less than a full opaque covering; and
 - (2) The conduct is:
 - (A) Is visible to the complainant;
 - (B) Is without the complainant’s effective consent; and
 - (C) Is with the purpose of alarming or sexually abusing, humiliating, harassing, or degrading the complainant.
- (b) *Second degree.* An actor commits second degree indecent exposure when that actor:
- (1) Knowingly engages in:
 - (A) A sexual act;
 - (B) Masturbation; or
 - (C) A display of the genitals, pubic area, or anus, when there is less than a full opaque covering;
 - (2) In, or visible from, a location that is:
 - (A) Open to the general public at the time of the offense;
 - (B) A communal area of multi-unit housing;
 - (C) A public conveyance; or
 - (D) A rail transit station; and
 - (3) Reckless as to the fact that the conduct:

- (A) Is visible to the complainant;
 - (B) Is without the complainant’s effective consent; and
 - (C) Alarms or sexually abuses, humiliates, harasses, or degrades any person.
- (c) *Exclusions from liability.*
 - (1) A person ~~does not commit an offense under this section when that person is under 12 years of age is not subject to prosecution under this section.~~
~~(2) Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution.~~
 - (2) A person ~~does not commit an offense shall not be subject to prosecution~~ under subsection (a) of this section ~~when: if that person’s conduct occurs~~
 - (A) ~~The person is~~ inside their own ~~actor’s~~ individual dwelling unit; and
 - (B) ~~The conduct~~ is not visible to any person outside the ~~such~~ dwelling.
 - (3) A person shall not be subject to prosecution under this section if that person is:
 - (A) An employee of a licensed sexually-oriented business establishment; and
 - (B) Acting within the reasonable scope of that role.
- (d) *Prosecutorial authority.* The Attorney General shall prosecute violations of this section.
- (e) *Penalties.*
 - (1) First degree indecent exposure is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree indecent exposure is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (f) *Definitions.*
 - (1) The terms “knowingly,” “purpose,” and “recklessly” have the meaning specified in RCC § 22E-206; and the terms “complainant,” “dwelling,” “effective consent,” “open to the general public,” “public conveyance,” ~~“rail transit station,”~~ and “sexual act” have the meanings specified in RCC § 22E-701.
 - (2) ~~In this section, the term “rail transit station” has the meaning specified in D.C. Code § 35-251; and the term “sexually-oriented business establishment” has the meaning specified in 11 DCMR § 199.1.~~

Chapter 43. Group Misconduct.

RCC § 22E-4301. Rioting.

- (a) *Offense.* ~~Except as provided in subsection (b) of this section,~~ An actor commits rioting when that actor:
 - (1) Knowingly attempts ~~to commit~~ or commits a District ~~offense crime~~ involving bodily injury, taking of property, or damage to property;

- (2) Reckless as to the fact 7 or more other people are each personally and simultaneously attempting ~~to commit~~ or committing a District ~~offense crime~~ involving bodily injury, taking of property, or damage to property in the area perceptible to the actor.
- ~~(b) Exclusions from liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- (e) *No attempt liability offense.* The general attempt provision in RCC § 22E-301 does not apply to ~~It is not an offense to attempt to commit the offense described in this section.~~
- ~~(d) Jury trial. A defendant charged with a violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (b) *Penalties.* Rioting is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor,” “bodily injury,” ~~“court,”~~ and “property” have the meanings specified in RCC § 22E-701.

RCC § 22E-4302. Failure to Disperse.

- (a) *Offense.* ~~Except as provided in subsection (b) of this section,~~ an actor commits failure to disperse when that actor:
- (1) Knowingly fails to obey a law enforcement officer’s dispersal order;
 - (2) Reckless as to the fact that 8 or more people are each personally and simultaneously attempting ~~to commit~~ or committing District ~~offenses crimes~~ involving bodily injury, taking of property, or damage to property in the area perceptible to the actor; and
 - (3) In fact, the actor’s presence substantially impairs the ability of a law enforcement officer to safely stop or prevent the criminal conduct.
- ~~(b) Exclusions from liability. Nothing in this section shall be construed to prohibit conduct protected by the U.S. Constitution, the First Amendment Assemblies Act of 2004 codified at D.C. Code § 5-331.01 et seq., or the Open Meetings Act codified at D.C. Code § 2-575.~~
- ~~(c) Jury trial. A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (b) *Penalties.* Failure to disperse is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The terms “knowingly” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “bodily injury,” ~~“court,”~~ “law enforcement officer,” and “property” have the meaning specified in RCC § 22E-701.

D.C. Code Statutes Outside Title 22 Recommended for Revision

RCC § 7-2502.01. Possession of an Unregistered Firearm, Destructive Device, or Ammunition.

- (a) *First degree.* A person commits first degree possession of an unregistered firearm, destructive device, or ammunition when that person knowingly possesses:
- (1) A firearm without, in fact, being the holder of a registration certificate issued under D.C. Code § 7-2502.07 for that firearm;~~or~~
 - (2) A destructive device~~;~~ **or**
 - (3) **One or more restricted pistol bullets.**
- (b) *Second degree.* A person commits second degree possession of an unregistered firearm, destructive device, or ammunition when that person knowingly possesses:~~—(1) ammunition without, in fact, being the holder of a registration certificate issued under D.C. Code § 7-2502.07 for a firearm of the same caliber;~~
~~or (2) 1 or more restricted pistol bullets.~~
- (c) *Exclusions from liability.* ~~Notwithstanding subsections (a) and (b) of this section:~~
- (1) A person ~~does not commit an offense shall not be subject to prosecution~~ under subsection (a) of this section for possession of a firearm frame, receiver, muffler, or silencer.
 - (2) ~~A person does not commit an offense under subsection (a) of this section for possession of a lacrimator or sternutator.~~
 - (3) A person ~~does not commit an offense shall not be subject to prosecution~~ under subsection (a) of this section ~~when that if the~~ person is a nonresident of the District of Columbia who is:
 - (A) Participating in a lawful recreational firearm-related activity inside the District; or
 - (B) Traveling to or from a lawful recreational firearm-related activity outside the District; and
 - (i) Upon demand of a law enforcement officer exhibits proof that:
 - (I) The person is traveling to or from a lawful recreational firearm-related activity outside the District; and
 - (II) The person's possession or control of the firearm is lawful in the person's jurisdiction of residence; and
 - (ii) The firearm is transported in accordance with the requirements specified in RCC § 22E-4109.
 - (4) A person ~~does not commit an offense shall not be subject to prosecution~~ under subsection (b) of this section ~~when that if the~~ person is the holder of an ammunition collector's certificate effective on or before September 24, 1976.
 - (5) A person ~~does not commit an offense shall not be subject to prosecution~~ under subsection (b) this section for possession of ~~one 1~~ or more empty cartridge cases, ~~or~~ shells, **or spent bullets.**

- ~~(5) A person shall not be subject to prosecution under this section for possession of an unregistered firearm, destructive device, or ammunition when voluntarily surrendering the object.~~
- (6) A person ~~does not commit an offense~~ ~~shall not be subject to prosecution~~ under this section ~~when that if the~~ person satisfies the ~~meets any of the~~ ~~exception~~ criteria in RCC § 22E-4118.
- (d) *Affirmative defense.* It is an affirmative defense to liability under this section that the person possesses the item while, in fact, voluntarily surrendering the item pursuant to District or federal law.
- (e) *Prosecutorial authority.* The Attorney General for the District of Columbia shall prosecute violations of this section.
- ~~(e) *Jury trial.* A defendant charged with a violation or an inchoate violation of this section may demand a jury trial. If the defendant demands a jury trial, then a court shall impanel a jury.~~
- (f) *Penalties.*
- (1) First degree possession of an unregistered firearm, destructive device, or ammunition is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of an unregistered firearm, destructive device, or ammunition is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) *Administrative Disposition.* The Attorney General for the District of Columbia may, in ~~the operation of~~ its discretion, offer an administrative disposition under D.C. Code § 5-335.01 et seq. for a violation of this section.
- (g) *Definitions.*
- (1) The term “knowingly” has the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms ~~“ammunition,” “Attorney General,” “court,”~~ “law enforcement officer,” and “possesses” ~~and “restricted pistol bullet”~~ have the meanings specified in RCC § 22E-701; ~~and the terms “destructive device” and “firearm” have the meanings specified in D.C. Code § 7-2501.01.~~
 - (2) ~~In this section the terms “ammunition,” “destructive device,” “firearm,” and “restricted pistol bullet” have the meaning specified in D.C. Code § 7-2501.01.~~
- (h) *Interpretation of statute.* ~~The general provisions of~~ Chapters 1 through 6 of Subtitle I of Title 22E ~~of the D.C. Code~~ apply to this offense.

RCC § 7-2502.15. Possession of a Stun Gun.

- (a) *Offense.* An actor ~~person~~ commits possession of a stun gun when that actor ~~person~~ knowingly possesses a stun gun and is:
- (1) Under 18 years of age; or
 - (2) In a location that:
 - (A) Is a building, building grounds, or part of a building thereof, that is occupied by the District of Columbia;

- (B) Is a building, **building grounds**, or part ~~of a building thereof~~, that is occupied by a preschool, a primary or secondary school, public **recreation youth** center, or a children's day care center; or
- (C) Displays clear and conspicuous signage indicating that stun guns are prohibited.
- (b) *Exclusions from liability.* ~~Notwithstanding subsection (a) of this section,~~ A person ~~does not commit an offense shall not be subject to prosecution~~ under this section, ~~when that if the~~ person ~~satisfies the meets any of the exception~~ criteria in RCC § 22E-4118.
- (c) ~~Effective consent~~ *Affirmative defense.* ~~In addition to any defenses otherwise applicable,~~ It is an affirmative defense to ~~liability prosecution~~ under this section; ~~which the defendant must prove by a preponderance of the evidence,~~ that, in fact:
 - (1) ~~A The~~ person lawfully in charge of the location gave effective consent to the conduct charged to constitute the offense; or ~~that~~
 - (2) The ~~actor aeused~~ reasonably believed that a person lawfully in charge of the location gave effective consent to the conduct charged to constitute the offense.
- (d) *Prosecutorial authority.* The Attorney General **for the District of Columbia** shall prosecute violations of this section.
- (e) *Penalties.*
 - (1) Possession of a stun gun is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) *Administrative Disposition.* The Attorney General **for the District of Columbia** may, in ~~the operation of~~ its discretion, offer an administrative disposition under D.C. Code § 5-335.01 et seq. for a violation of this section.
- (f) *Definitions.*
 - (1) The terms “knowingly” and “negligent” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms **“actor,” “Attorney General,” “building,” “building grounds,” “effective consent,” and “possesses”** ~~and “stun gun”~~ have the meanings specified in RCC § 22E-701.
 - (2) **In this section, the term “stun gun” has the meaning specified in D.C. Code § 7-2501.01.**
- (g) *Interpretation of statute.* ~~The general provisions of~~ Chapters 1 through 6 of Subtitle I of Title 22E ~~of the D.C. Code~~ apply to this offense.

RCC § 7-2502.17. Carrying an Air or Spring Gun.

- (a) *Offense.* A person commits carrying an air or spring gun when that person:
 - (1) Knowingly possesses any instrument or weapon of the kind commonly known as an air rifle, air gun, air pistol, B-B gun, spring gun, blowgun, or bowgun;
 - (2) ~~In a location that is:~~ **While** outside a building; and
 - (3) **The instrument or weapon is** conveniently accessible and within reach.
- (b) *Exclusions from liability.* ~~Notwithstanding subsection (a) of this section:~~

- (1) A person ~~does not commit an offense shall not be subject to prosecution~~ under this section if the conduct occurs:
 - (A) As part of a lawful theatrical performance, ~~or~~ athletic contest, ~~or educational or cultural presentation~~;
 - (B) In a licensed firing range; or
 - (C) With the permission of the Metropolitan Police Department.
- (2) A person ~~does not commit an offense shall not be subject to prosecution~~ under this section if the person:
 - (A) Is 18 years of age or older; and
 - (B) Transports the instrument or weapon while it is unloaded and securely wrapped.
- (3) A person ~~does not commit an offense shall not be subject to prosecution~~ under this section ~~when that if the~~ person ~~satisfies the~~ ~~meets any of the~~ ~~exception~~ criteria in RCC § 22E-4118.
- (c) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (d) *Penalties.* Carrying an air or spring gun is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms ~~“Attorney General,”~~ “building,” and “possesses” have the meanings specified in RCC § 22E-701.
- (f) *Interpretation of statute.* ~~The general provisions of~~ Chapters 1 through 6 of Subtitle I of Title 22E ~~of the D.C. Code~~ apply to this offense.

RCC § 7-2507.02. Unlawful Storage of a Firearm.

- (a) *Offense.* An actor commits unlawful storage of a firearm when that actor:
 - (1) Knowingly possesses a firearm ~~registered under D.C. Code § 7-2502.07~~ that is:
 - ~~(A) On premises under the actor’s control; and~~
 - ~~(B) In a location that is neither:~~
 - (A) ~~Not~~ conveniently accessible and within reach ~~of the actor; and~~
 - (B) ~~Not in~~ a securely locked container; ~~and or~~
 - (C) ~~Not in~~ another location that a reasonable person would believe to be secure; ~~and nor~~
 - (2) Is negligent as to the fact that:
 - (A) A person under 18 years of age is able to access the firearm without the permission of ~~their person’s~~ parent or guardian; or
 - (B) A person prohibited from possessing a firearm under District law is able to access the firearm.
- (b) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (c) *Penalties.*
 - (1) Unlawful storage of a firearm is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (2) *Penalty Enhancements.* In addition to any general penalty enhancements ~~under this title in RCC §§ 22E-605—22E-608,~~ the penalty classification for ~~an this~~ offense under subparagraph (a)(1)(A) of this section is ~~may be~~ increased ~~in severity~~ by one ~~+~~ class when, ~~in addition to the elements of the offense in subparagraph (a)(2)(A) of this section, it is proven that~~ a person under 18 years of age accesses and uses the firearm to cause either:
- (A) A criminal harm involving bodily injury; or
 - (B) A bodily injury to ~~themselves himself or herself.~~
- (d) *Definitions.* The term “negligently” has the meaning specified in RCC § 22E-206; and the terms ~~“Attorney General,”~~ “actor,” “bodily injury,” and “firearm” have the meanings specified in RCC § 22E-701.
- (e) *Interpretation of statute.* ~~The general provisions of~~ Chapters 1 through 6 of Subtitle I of Title 22E ~~of the D.C. Code~~ apply to this offense.

RCC § 7-2509.06. Carrying a Pistol in an Unlawful Manner.

- (a) *Offense.* An actor commits carrying a pistol in an unlawful manner when that actor:
- (1) Knowingly possesses a pistol; ~~licensed under RCC § 22E-4110 in a location that is;~~
 - (2) ~~While~~ outside ~~the actor’s a person’s~~ home or place of business; ~~and~~
 - (3) ~~The pistol is~~ conveniently accessible and within reach; and
 - (4) In addition:
 - (A) ~~The actor~~ possesses ~~in that location~~ ammunition ~~that is conveniently accessible and within reach and is either:~~
 - (i) More than is required to fully load the pistol twice; ~~or~~
 - (ii) More than 20 rounds ~~of ammunition;~~
 - (B) The pistol is not entirely hidden from public view; or
 - (C) The pistol is not in a holster on ~~the actor’s their~~ person in a firmly secure manner that is reasonably designed to prevent loss, theft, and accidental discharge of the pistol.
- (b) *Exclusions from liability.* ~~Notwithstanding subsection (a) of this section,~~ A person ~~does not commit an offense shall not be subject to prosecution~~ under this section ~~when that if the~~ person satisfies the ~~meets any of the exception~~ criteria in RCC § 22E-4118.
- (c) *Prosecutorial authority.* The Attorney General ~~for the District of Columbia~~ shall prosecute violations of this section.
- (d) *Penalties.* Carrying a pistol in an unlawful manner is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.*
- (1) The term “knowingly” has the meaning specified in RCC § 22E-206; ~~and the terms “ammunition” and “pistol” have the meanings specified in RCC § 22E-701.~~
 - (2) ~~In this section,~~ the terms “actor,” “ammunition,” and “pistol” have the meanings specified in D.C. Code § 7-2501.01.

- (f) *Interpretation of statute.* ~~The general provisions of~~ Chapters 1 through 6 of Subtitle I of Title 22E ~~of the D.C. Code~~ apply to this offense.

RCC § 16-1021. Parental Kidnapping Definitions.

For the purposes of this subchapter, the terms:

- (1) “Child” means a person under the age of 16.
- (2) “Lawful custodian” means a person who is authorized to have custody under District law, or by an order of the Superior Court of the District of Columbia or a court of competent jurisdiction of any state, or a person designated by the lawful custodian temporarily to care for the child.
- (3) “Relative” means a parent, other ancestor, brother, sister, uncle, or aunt, or one who has been lawful custodian at some prior time.

RCC § 16-1022. Parental Kidnapping Criminal Offense.

- (a) *First Degree.* A person commits the offense of first degree parental kidnapping when that person:
- (1) Commits fourth degree parental kidnapping; and
 - (2) Knowingly takes, conceals, or detains the child outside of the District ~~for more than 24 hours~~; and
 - (3) The child is, in fact, outside the custody of the lawful custodian for more than 30 days.
- (b) *Second Degree.* A person commits the offense of second degree parental kidnapping when that person:
- (1) Commits fourth degree parental kidnapping; and
 - (2) Knowingly takes, conceals, or detains the child outside of the District ~~for more than 24 hours~~; and
 - (3) Fails to release the child without injury in a safe place prior to arrest.
- (c) *Third Degree.* A person commits the offense of third degree parental kidnapping when that person:
- (1) Commits fourth degree parental kidnapping;
 - (2) Knowingly takes, conceals, or detains the child outside of the District ~~for more than 24 hours~~;
- (d) *Fourth Degree.* A person commits the offense of fourth degree parental kidnapping when that person:
- (1) Knowingly takes, conceals, or detains a person who has another lawful custodian;
 - (2) With intent to prevent a lawful custodian from exercising rights to custody of the person;
 - (3) The ~~complainant~~ ~~person taken, concealed, or detained~~ is, in fact, under the age of 16; and
 - (4) The actor is, ~~in fact~~, a relative of the complainant, or a person ~~who believes he or she is~~ acting pursuant to the direction of a relative of the complainant.

- (e) *Exclusion from Liability.* ~~An actor shall not be subject to prosecution under this section if the act constituting the offense is taken~~ A person does not commit an offense under this section when the act constituting the offense is taken:
- (1) By a parent fleeing from imminent physical harm to the parent;
 - (2) With the effective consent of the other parent; or
 - (3) With intent to protect the child from imminent physical harm.
- (f) *Defense.*
- (1) If a person engages in conduct constituting a violation of this section, the person may file a petition in the Superior Court of the District of Columbia that:
 - (A) States that at the time the act was done, a failure to do the act would have resulted in a clear and present danger to the health, safety, or welfare of the child; and
 - (B) Seeks to establish custody, to transfer custody, or to revise or to clarify the existing custody order; except that if the Superior Court of the District of Columbia does not have jurisdiction over the custody issue, the person shall seek to establish, transfer, revise, or clarify custody in a court of competent jurisdiction.
 - (2) It is a defense to prosecution under this section that the actor filed a petition as provided in paragraph (f)(1) within 5 business days of the action taken, and that the court finds that at the time the act was done, a failure to do the act would have resulted in a clear and present danger to the health, safety, or welfare of the child.
- (g) *Continuous Offense.* The offense prohibited by this section is continuous in nature and continues for so long as the child is concealed, detained, or otherwise unlawfully physically removed from the lawful custodian.
- ~~(h) *Prosecution by Attorney General.* Prosecutions under this section shall be brought in the Superior Court of the District of Columbia in name of the District by the Attorney General.~~
- (i) ~~(h)~~ *Penalties.*
- (1) First degree parental kidnapping is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree parental kidnapping is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree parental kidnapping is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree parental kidnapping is a Class [X] crime, subject to a maximum fine of [X], or both.
 - (5) *Reimbursement of Expenses.* Any expenses incurred by the District in returning the child shall be ~~reimbursed to the District by any person convicted of a violation of this section~~ shall be assessed by the court against any person convicted of the violation and reimbursed to the District. Those expenses ~~and costs~~ reasonably incurred by the lawful custodian and child victim as a result of a violation of this section shall be assessed by the court against any person convicted of the violation ~~and reimbursed to the lawful custodian.~~

(6) First and Second Degree Parental Kidnapping Designated as Felonies. Notwithstanding the maximum authorized penalties, first and second degree parental kidnapping shall be deemed felonies for purposes of D.C. Code § 22-563.

- (j) *(i) Definitions.* For the purposes of this section:
- (1) The terms “child,” “lawful custodian” and “relative” have the meanings specified in D.C. Code § 16-1021.
 - (2) The terms “intent,” and “knowing” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; the terms “Attorney General,” “consent,” and “effective consent” have the meaning specified in RCC § 22E-701.
- (k) *(j) Interpretation of Statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code apply to this offense.

RCC § 16-1023. Protective Custody and Return of Child.

- (a) A law enforcement officer may take a child into protective custody if it reasonably appears to the officer that any person is in violation of this subchapter and unlawfully will flee the District with the child.
- (b) A child who has been detained or concealed shall be returned by a law enforcement officer to the lawful custodian or placed in the custody of another entity authorized by law.

RCC § 16-1024. Expungement of Parental Kidnapping Conviction.

Any parent convicted in the Superior Court of the District of Columbia of violating any provision of this subchapter with respect to his or her child may apply to the court for an order to expunge from all official records all records relating to the conviction at such time that the parent’s youngest child has reached the age of 18 years, provided that the parent has no more than 1 conviction for a violation of this subchapter at the time that the application for expungement is made. Any other person convicted of violating the provisions of this subchapter may apply to the court for an order to expunge all records relating to the conviction 5 years after the conviction, or at such time as the child has reached the age of 18 years, whichever shall later occur, provided that the person has no more than 1 conviction for violating any provision of this subchapter at the time that the application for expungement is made.

RCC § 25-1001. Possession of an Open Container or Consumption of Alcohol in a Motor Vehicle.

- (a) *Offense.* A person commits possession of an open container or consumption of alcohol in a motor vehicle when that person:
 - (1) Knowingly:
 - (A) Consumes an alcoholic beverage; or
 - (B) Possesses an alcoholic beverage in an open container;

- (2) In the passenger area of a motor vehicle on a public highway, or the right-of-way of a public highway.
- (b) *Exclusions from liability.*
 - (1) ~~A person shall not be subject to prosecution under this section for conduct in a vehicle that operates on rails.~~
 - (2) A person does not commit an offense ~~shall not be subject to prosecution~~ under this section ~~when if~~ that person is:
 - (2) ~~(A)~~ Located in:
 - (A) ~~(i)~~ The passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or
 - (B) ~~(ii)~~ The living quarters of a house coach or house trailer; and
 - (3) ~~(B)~~ Not operating the motor vehicle.
- (f) *No attempt liability Possession of an Open Container or Consumption of Alcohol offense.* The general attempt provision in RCC § 22E-301 does not apply to ~~It is not an offense to attempt to commit the offense described in~~ this section.
- (c) *Penalties.* Possession of an open container or consumption of alcohol in a motor vehicle is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.*
 - (1) The term “knowingly” has the meaning specified in RCC § 22E-206; the terms “motor vehicle” and “possess” have the meanings specified in RCC § 22E-701.;
 - (2) In this section, the terms “alcoholic beverage” and “open container” have the meanings specified in D.C. Code § 25-101; and the term “highway” has the meaning specified in ~~D.C. Code § 50-2206.01 23 U.S.C. § 101(a).~~
- (e) *Interpretation of statute.* ~~The general provisions of~~ Chapters 1 through 6 of Subtitle I of Title 22E ~~of the D.C. Code~~ apply to this offense.

RCC § 48-904.01a. Possession of a Controlled Substance.

- (a) *First Degree.* A person commits first degree possession of a controlled substance when that person:
 - (1) Knowingly possesses a measurable amount of a controlled substance; and
 - (2) The controlled substance is, in fact:
 - (A) Opium, its phenanthrene alkaloids, or their derivatives, except isoquinoline alkaloids of opium;
 - (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;
 - (C) Opium poppy or poppy straw;
 - (D) Cocaine, its salts, optical and geometric isomers, or salts of isomers;
 - (E) Ecgonine, its derivatives, their salts, isomers, or salts of isomers;
 - (F) Methamphetamine, its salts, isomers, or salts of its isomers;
 - (G) Phenmetrazine, or its salts; or

- (H) Phencyclidine or a phencyclidine immediate precursor.
- (b) *Second Degree.* A person commits second degree possession of a controlled substance when that person knowing possesses a measurable amount of any controlled substance.
- (c) *Exclusions from Liability.* ~~Notwithstanding subsections (a) and (b), a person shall not be subject to prosecution under this section if a person:~~ A person does not commit an offense under this section when that person:
- (1) Possesses a controlled substance that was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or as authorized by this chapter or Chapter 16B of Title 7; or
 - (2) ~~Satisfies the requirements specified under D.C. Code § 7-403.~~
- (d) *Penalties.*
- (1) First degree possession of a controlled substance is a Class [X] offense subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree possession of a controlled substance is a Class [X] offense subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (e) *Definitions.* The term “knowingly” has the meaning specified in RCC § 22E-206; the term “possesses” has the meaning specified in RCC § 22E-701; and the terms “controlled substance,” “distribute,” “immediate precursor,” “manufacture,” “opium poppy,” and “person,” and “poppy straw” have the meanings specified in RCC § 48-901.02.
- (f) *Interpretation of Statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code apply to this offense.
- (g) *Dismissal of Proceedings.*
- (1) When a person is found guilty of violation of RCC § 48-904.01a the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him or her on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him or her from probation before the expiration of the maximum period prescribed for such person’s probation. If during the period of probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him or her. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a

crime (including the penalties prescribed under § 48-904.08 for second or subsequent convictions) or for any other purpose.

- (2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained under paragraph (1) of this subsection) all recordation relating to his or her arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this subsection. If the court determines, after hearing, that such person was dismissed and the proceedings against him or her discharged, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of this law, to the status he or she occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge such arrest, or indictment, or trial in response to any inquiry made of him or her for any purpose.
- (3) A person who was discharged from probation and whose case was dismissed pursuant to paragraph (1) of this subsection shall be entitled to a copy of the nonpublic record retained under paragraph (1) of this subsection but only to the extent that such record would have been available to the person before an order of expungement was entered pursuant to paragraph (2) of this subsection. A request for a copy of the nonpublic record may be made ex parte and under seal by the person or by an authorized representative of the person.

RCC § 48-904.01b. Trafficking of a Controlled Substance.

- (a) *First Degree.* A person commits first degree trafficking of a controlled substance when that person:
 - (1) Knowingly distributes, manufactures, or possesses with intent to distribute or manufacture, a measurable quantity of a controlled substance; and
 - (2) The controlled substance is, in fact:
 - (A) More than 200 grams of any compound or mixture containing opium, its phenanthrene alkaloids, or their derivatives, except isoquinoline alkaloids of opium;
 - (B) More than 200 grams of any compound or mixture containing any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;
 - (C) More than 200 grams of a compound or mixture containing opium poppy or poppy straw;
 - (D) More than 400 grams of a compound or mixture containing cocaine, its salts, optical and geometric isomers, or salts of isomers;

- (E) More than 400 grams of a compound or mixture containing ecgonine, its derivatives, their salts, isomers, or salts of isomers;
 - (F) More than 200 grams of a compound or mixture containing methamphetamine, its salts, isomers, or salts of its isomers;
 - (G) More than 200 grams of a compound or mixture containing phenmetrazine, or its salts; or
 - (H) More than 100 grams of a compound or mixture containing phencyclidine or a phencyclidine immediate precursor.
- (b) *Second Degree.* A person commits second degree trafficking of a controlled substance when that person:
- (1) Knowingly distributes, manufactures, or possesses with intent to distribute or manufacture, a measurable quantity of a controlled substance; and
 - (2) The controlled substance is, in fact:
 - (A) More than 20 grams of any compound or mixture containing opium, its phenanthrene alkaloids, or their derivatives, except isoquinoline alkaloids of opium;
 - (B) More than 20 grams of any compound or mixture containing any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;
 - (C) More than 20 grams of a compound or mixture containing opium poppy or poppy straw;
 - (D) More than 50 grams of a compound or mixture containing cocaine, its salts, optical and geometric isomers, or salts of isomers;
 - (E) More than 50 grams of a compound or mixture containing ecgonine, its derivatives, their salts, isomers, or salts of isomers;
 - (F) More than 20 grams of a compound or mixture containing methamphetamine, its salts, isomers, or salts of its isomers;
 - (G) More than 20 grams of a compound or mixture containing phenmetrazine, or its salts; or
 - (H) More than 10 grams of a compound or mixture containing phencyclidine or a phencyclidine immediate precursor.
- (c) *Third Degree.* A person commits third degree trafficking of a controlled substance when that person:
- (1) Knowingly distributes, manufactures, or possesses with intent to distribute or manufacture, a measurable quantity of a controlled substance; and
 - (2) The controlled substance is, in fact, **a compound or mixture containing:**
 - (A) Opium, its phenanthrene alkaloids, or their derivatives, except isoquinoline alkaloids of opium;
 - (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;

- (C) Opium poppy or poppy straw;
 - (D) Cocaine, its salts, optical and geometric isomers, or salts of isomers;
 - (E) Ecgonine, its derivatives, their salts, isomers, or salts of isomers;
 - (F) Methamphetamine, its salts, isomers, or salts of its isomers;
 - (G) Phenmetrazine, or its salts; or
 - (H) Phencyclidine or a phencyclidine immediate precursor.
- (d) *Fourth Degree.* A person commits fourth degree trafficking of a controlled substance when that person knowingly distributes, manufactures, or possesses with intent to distribute or manufacture, a measurable quantity of any controlled substance that is, in fact, listed in Schedule I, II, or III as defined in Subchapter II of this Chapter.
- (e) *Fifth Degree.* A person commits fifth degree trafficking of a controlled substance when that person knowingly distributes, manufactures, or possesses with intent to distribute or manufacture, a measurable quantity of any controlled substance.
- (f) *Aggregation of Quantities.* When a single scheme or systematic course of conduct could give rise to multiple charges under this section, the government instead may bring one charge and aggregate the quantities of a controlled substance involved in the scheme or systematic course of conduct to determine the grade of the offense.
- (g) *Weight of Mixtures and Compounds not to Include Edible Products or Non-Consumable Containers.*
- (1) For controlled substances that are contained within edible products and that are intended to be consumed as food or beverages, the total weight of the controlled substance shall be determined by calculating the concentration of the controlled substance contained within the mixture and then calculating the total amount of controlled substance that is present. The weight of the inert edible mixture will not be added to determine the total weight of the compound or mixture containing a controlled substance.
 - (2) The weight of a non-consumable container in which a controlled substance is stored or carried shall not be included in the weight of the compound or mixture containing the controlled substance.
- (h) ~~(g)~~ *Penalties.*
- (1) First degree trafficking of a controlled substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree trafficking of a controlled substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree trafficking of a controlled substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (4) Fourth degree trafficking of a controlled substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree trafficking of a controlled substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (6) *Enhanced Penalties.* In addition to any general penalty enhancements under this title, in ~~RCC §§ 22E-605—22E-608~~, the penalty classification for any gradation of this offense ~~may be~~ is increased in severity by one class when, in addition to the elements of the offense gradation, ~~one or more of the following is proven:~~
 - (A) The actor is, in fact, 21 years of age or older, and distributes a controlled substance to a person ~~who is, in fact reckless as to the fact that the person is~~ under 18 years of age;
 - (B) The actor knowingly possesses, either on the actor's person or in a location where it is readily available, a firearm, imitation firearm, or dangerous weapon in furtherance of and while distributing, or possessing with intent to distribute, a controlled substance; ~~or~~
 - (C) ~~The actor is, in fact, 21 years of age or older, and the actor engages in the conduct constituting the offense by enlisting, hiring, contracting, or encouraging any person under 18 years of age to sell or distribute any controlled substance for the profit or benefit of the actor with recklessness as to the fact the person is under the age of 18; or~~
 - (D) The actor commits an offense under this section when in a location that, in fact:
 - (i) Is within ~~100~~ 300 feet of the property line of a school, college, university, public swimming pool, public playground, ~~public youth center~~, ~~public recreation center~~, public library, or children's day care center; and
 - (ii) Displays clear and conspicuous signage that indicates controlled substances are prohibited in the location or that the location is a drug free zone.
- (i) ~~(h)~~ *Defenses.*
- (1) It is a defense to prosecution under this section for distribution or possession with intent to distribute that the actor distributes or possesses with intent to distribute a controlled substance but does not do so in exchange for something of value or ~~future~~ expectation of ~~future~~ financial gain from distribution of a controlled substance ~~and either the quantity of the controlled substance distributed does not exceed the amount for a single use by the recipient, or recipient intends to immediately use the controlled substance."~~
 - (2) It is a defense to prosecution under this section for manufacturing or possession with intent to manufacture that the actor packaged, repackaged,

labeled, or relabeled a controlled substance for his or her own personal use, or possessed a controlled substance with intent to do so.

(3) *Burden of Proof for Defenses.* If any evidence of either defense under this subsection is present at trial, the government must prove the absence of all requirements of the defense beyond a reasonable doubt.

~~(j)-(i)~~ *Definitions.* The terms “intent” and “knowledge” have the meanings specified in RCC § 22E-206; the terms “actor,” “**controlled substance**,” “dangerous weapon,” “firearm,” “imitation firearm,” and “possesses” have the meaning specified in RCC § 22E-701; and the terms and the terms “controlled substance,” “distribute,” “immediate precursor,” “manufacture,” “opium poppy,” and “person,” and “poppy straw” have the meanings specified in RCC § 48-901.02.

(k) ~~(j)~~ *Interpretation of Statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22**E** of the D.C. Code apply to this offense.

RCC § 48-904.01c. Trafficking of a Counterfeit Substance

(a) *First Degree.* A person commits first degree trafficking of a counterfeit substance when that person

(1) Knowingly distributes, creates, or possesses with intent to distribute a measurable quantity of a counterfeit substance; and

(2) The counterfeit substance is, in fact:

(A) More than 200 grams of any compound or mixture containing opium, its phenanthrene alkaloids, or their derivatives (except isoquinoline alkaloids of opium);

(B) More than 200 grams of any compound or mixture containing any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;

(C) More than 200 grams of a compound or mixture containing opium poppy or poppy straw;

(D) More than 400 grams of a compound or mixture containing cocaine, its salts, optical and geometric isomers, or salts of isomers;

(E) More than 400 grams of a compound or mixture containing ecgonine, its derivatives, their salts, isomers, or salts of isomers;

(F) More than 200 grams of a compound or mixture containing methamphetamine, its salts, isomers, or salts of its isomers;

(G) More than 200 grams of a compound or mixture containing phenmetrazine, or its salts; or

(H) More than 100 grams of a compound or mixture containing phencyclidine or a phencyclidine immediate precursor;

(b) *Second Degree.* A person commits second degree trafficking of a counterfeit substance when that person:

(1) Knowingly distributes, creates, or possesses with intent to distribute a measurable quantity of a counterfeit substance; and

(2) The counterfeit substance is, in fact:

- (A) More than 20 grams of any compound or mixture containing opium, its phenanthrene alkaloids, or their derivatives (except isoquinoline alkaloids of opium);
 - (B) More than 20 grams of any compound or mixture containing any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;
 - (C) More than 20 grams of a compound or mixture containing opium poppy or poppy straw;
 - (D) More than 20 grams of a compound or mixture containing cocaine, its salts, optical and geometric isomers, or salts of isomers;
 - (E) More than 20 grams of a compound or mixture containing ecgonine, its derivatives, their salts, isomers, or salts of isomers;
 - (F) More than 20 grams of a compound or mixture containing methamphetamine, its salts, isomers, or salts of its isomers;
 - (G) More than 20 grams of a compound or mixture containing phenmetrazine, or its salts; or
 - (H) More than 10 grams of a compound or mixture containing phencyclidine or a phencyclidine immediate precursor;
- (c) *Third Degree.* A person commits third degree trafficking of a counterfeit substance when that person:
- (1) Knowingly distributes, creates, or possesses with intent to distribute a measurable quantity of a counterfeit substance; and
 - (2) The counterfeit substance is, in fact **a compound or mixture containing:**
 - (A) Opium, its phenanthrene alkaloids, or their derivatives (except isoquinoline alkaloids of opium);
 - (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (A) of this paragraph;
 - (C) Opium poppy or poppy straw;
 - (D) Cocaine, its salts, optical and geometric isomers, or salts of isomers;
 - (E) Ecgonine, its derivatives, their salts, isomers, or salts of isomers;
 - (F) Methamphetamine, its salts, isomers, or salts of its isomers;
 - (G) Phenmetrazine, or its salts; or
 - (H) Phencyclidine or a phencyclidine immediate precursor.
- (d) *Fourth Degree.* A person commits fourth degree trafficking of a counterfeit substance when that person knowingly distributes, creates, or possesses with intent to distribute a measurable quantity of any counterfeit substance that is, in fact, a controlled substance under Schedule I, II, or III, as defined in Subchapter II of this Chapter.
- (e) *Fifth Degree.* A person commits fifth degree trafficking of a counterfeit substance when that person knowingly distributes, creates, or possesses with intent to distribute a measurable quantity of any counterfeit substance.

- (f) *Aggregation of Quantities.* When a single scheme or systematic course of conduct could give rise to multiple charges under this section, the government instead may bring one charge and aggregate the quantities of a counterfeit substance involved in the scheme or systematic course of conduct to determine the grade of the offense.
- (g) *Penalties.*
- (1) First degree trafficking of a counterfeit substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree trafficking of a counterfeit substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (3) Third degree trafficking of a counterfeit substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (4) Fourth degree trafficking of a counterfeit substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (5) Fifth degree trafficking of a counterfeit substance is a Class [X] crime subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (6) *Enhanced Penalties.* In addition to any general penalty enhancements ~~under this title, in RCC §§ 22E-605—22E-608,~~ the penalty classification for any gradation of this offense ~~may be~~ is increased in severity by one class when, in addition to the elements of the offense gradation, if the actor knowingly possesses, either on the actor's person or in a location where it is readily available, a firearm, imitation firearm, or dangerous weapon in furtherance of and while distributing, or possessing with intent to distribute, a counterfeit substance.
- (h) *Definitions.* The terms “intent” and “knowledge” have the meanings specified in RCC § 22E-206; the terms “actor,” “dangerous weapon,” “firearm” “imitation firearm,” and “possesses” have the meaning specified in RCC § 22E-701; and the terms “controlled substance,” “distribute,” “immediate precursor,” “manufacture,” “opium poppy,” and “person,” and “poppy straw” have the meanings specified in RCC § 48-901.02.
- (i) *Interpretation of Statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code apply to this offense.

RCC § 48-904.10. Possession of Drug Manufacturing Paraphernalia.

- (a) *Offense.* A person commits possession of drug manufacturing paraphernalia when that person knowingly possesses an object: ~~with intent to use the object to manufacture a controlled substance.~~
- ~~(1) That has been used to manufacture a controlled substance; or~~
 - ~~(2) With intent to use the object to manufacture a controlled substance.~~

- (b) *Exclusions to Liability.* ~~Notwithstanding subsection (a), it shall not be a violation~~
A person does commit an offense under this section:
- (1) If the object possessed is 50 years of age or older; or
 - (2) If a person possesses an object: with intent solely to use the object to package or repackage a controlled substance for that person's own use; or
 - ~~(3) If a person possesses an object:~~
 - ~~(A) That has been used to package or repackage a controlled substance for that person's own use; or~~
 - ~~(B) With intent to use the object to package or repackage a controlled substance for that person's own use.~~
- (c) *Penalty.* Possession of drug manufacturing paraphernalia is a Class [X] offense, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* The terms "intent" and "knowingly" have the meanings specified in RCC § 22E-206; the term "possesses" has the meaning specified in RCC § 22E-701; and the terms "controlled substance" and "manufacture" ~~has~~ have the meaning specified in D.C. Code § 48-901.02.
- (e) *Interpretation of Statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code apply to this offense.

RCC § 48-904.11. Trafficking of Drug Paraphernalia.

- (a) *Offense.* A person commits trafficking of drug paraphernalia when that person:
- (1) Knowingly sells or delivers, or possesses with intent to sell or deliver, an object;
 - (2) With intent that another person will use the object to introduce into the human body, produce, process, prepare, test, analyze, pack, store, conceal, manufacture, or measure a controlled substance.
- (b) *Exclusions to Liability.* ~~Notwithstanding subsection (a), it shall not be a violation of this section~~ A person does not commit an offense under this section when that person:
- (1) ~~For~~ Is a community-based organization ~~to~~ that sells or delivers, or possesses with intent to sell or deliver, testing equipment or other objects used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of a controlled substance ~~or for ingestion or inhalation of a controlled substance; or~~
 - ~~(2) For person authorized by subsection (b) of 48-1103.01 to deliver any hypodermic syringe or needle distributed as part of the Needle Exchange Program authorized under D.C. Code § 48-1103.01; or~~ Sells, delivers or possesses with intent to sell or deliver an unused hypodermic syringe or needle;
 - ~~(3)~~ Sells or delivers, or possesses with intent to sell or deliver, an item intended for use in a medical procedure or treatment permitted under District or federal civil law, to be performed by a licensed health professional or by a person acting at the direction of a licensed health professional; or

- (4) ~~For a person to sell~~ Sells or delivers or possesses with intent to sell or deliver an object that is 50 years of age or older.
- (c) *Penalties.* Distribution of drug paraphernalia is a Class [X] offense, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (d) *Definitions.* ~~The term “community-based organization” has the meaning specified in D.C. Code § 7-404; t~~The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the terms “community based organization,” and “possesses” ~~has~~ have the meanings specified in RCC § 22E-701; and the terms “controlled substance” and “distributes” have the meaning specified in § 48-901.02.
- (e) *Interpretation of Statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code apply to this offense.

RCC § 48-904.12. Maintaining Methamphetamine Production.

- (a) *Offense.* A person commits the offense of maintaining methamphetamine production when that person knowingly maintains or opens any location with intent that the location will be used to manufacture, other than by mere packaging, repackaging, labeling, or relabeling, methamphetamine, its salts, isomers, or salts of its isomers.
- (b) *Penalties.* Maintaining methamphetamine production is a Class [X] offense, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Definitions.* The term “knowingly” has the meaning specified in RCC 22E-206.
- (d) *Interpretation of statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code apply to this offense.