



D.C. Criminal Code Reform Commission
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Advisory Group Memorandum No. 5

To: Code Revision Advisory Group
From: Criminal Code Reform Commission (CCRC)
Date: March 3, 2017
Re: Changes for Voting Draft of Report #1 (Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes).

This memorandum summarizes the few changes the Criminal Code Reform Commission (CCRC) made to the “Second Draft of Report #1: Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes”¹ and accompanying appendices in preparation of the final recommendations in Voting Draft of Report #1 (separately attached). The most notable change concerns the language the Code Revision Advisory Group (Advisory Group) discussed at its March 1, 2017 meeting, highlighting for the Council’s Office of the General Counsel the issue of whether to codify a short statement of legislative intent in the enacted Title 22. Apart from formatting corrections and updating the prefatory language on the issuance of drafts and approval process, the changes to the Report and Appendices are as follows:

1. To correct a typo, on page 6 of the Report, in the first sentence of the final paragraph, “covered” was added so that the text reads “appear to be covered by.”
2. Since the Report and accompanying appendices were prepared in October 2016, the D.C. Official Code on LexisNexis has been updated. In Footnote 47 of the Report and the accompanying text, language was added explaining that the materials were prepared in October 2016. In the draft bill in Appendix IX, in the italicized language before the text of the bill, staff added similar language.
3. For further clarity, Footnote 48 adds two examples of titles in the D.C. Code that the Council enacted under its general legislative authority, Title 29 (Business Organization) and Title 47 (Taxation and Fiscal Affairs).
4. Upon further review of *In re Smith*, 138 A.3d 1181 (D.C. 2016), staff changed slightly the parenthetical note on the case in Footnote 50. The D.C. Court of Appeals (DCCA) in *In re Smith* examined the structure and objectives of the statute at issue,

¹ The first draft was discussed at the November 10, 2016, Advisory Group meeting. The deadline for written comments on the first draft was January 13, 2017. The second draft was submitted to the Advisory Group on January 25, 2017, and discussed at the February 1, 2017 meeting, with a deadline for written comments of February 27, 2017.

but not the legislative history (although the DCCA did cite Supreme Court case law supporting the use of legislative history).

5. To correct a typo, changed “intended” to “intend” in the last sentence of Footnote 51.
6. In the last paragraph of the section on enactment of Title 22, on page 18, added the language that the Advisory Group agreed to at the March 1, 2017 meeting regarding the Council’s Office of General Counsel considering whether to codify a short statement of legislative intent in the enacted Title 22.

The Voting Draft of Report #1 marks these changes from the Second Draft of Report #1 in redline.