



FIRST DRAFT OF REPORT #68,  
CUMULATIVE UPDATE  
TO THE REVISED CRIMINAL CODE

SUBMITTED FOR ADVISORY GROUP REVIEW  
December 24, 2020

DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION  
441 FOURTH STREET, NW, SUITE 1C001 SOUTH  
WASHINGTON, DC 20001  
PHONE: (202) 442-8715  
[www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

This Draft Report contains recommended reforms to District of Columbia criminal statutes for review by the D.C. Criminal Code Reform Commission's statutorily designated Advisory Group. A copy of this document and a list of the current Advisory Group members may be viewed on the website of the D.C. Criminal Code Reform Commission at [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov).

This Draft Report has two main parts: (1) draft statutory text for an enacted Title 22 (Title 22E) of the D.C. Code; and (2) commentary on the draft statutory text. The commentary corresponding to provisions in each Subtitle is separately paginated. The commentary explains the meaning of each provision and considers whether existing District law would be changed by the provision.

Any Advisory Group member may submit written comments on any aspect of this Draft Report to the D.C. Criminal Code Reform Commission. The Commission will consider all written comments that are timely received from Advisory Group members. Additional versions of this Draft Report may be issued for Advisory Group review, depending on the nature and extent of the Advisory Group's written comments. The D.C. Criminal Code Reform Commission's final recommendations to the Council and Mayor for comprehensive criminal code reform will be based on the Advisory Group's timely written comments and approved by a majority of the Advisory Group's voting members.

The deadline for the Advisory Group's written comments on this First Draft of Report #68 - Cumulative Update to the Revised Criminal Code is January 29, 2021.

Oral comments and written comments received after these dates may not be reflected in the next draft or final recommendations. All written comments received from Advisory Group members will be made publicly available and provided to the Council on an annual basis.

**CCRC Draft Title 22E**  
**Table of Contents**

**SUBTITLE I. GENERAL PART.**

**Chapter 1. Preliminary Provisions.**

- § 22E-101. Short Title and Effective Date.\*
- § 22E-102. Rules of Interpretation.\*
- § 22E-103. Interaction of Title 22E with Other District Laws.\*
- § 22E-104. Applicability of the General Part.\*

**Chapter 2. Basic Requirements of Offense Liability.**

- § 22E-201. Proof of Offense Elements Beyond a Reasonable Doubt.\*
- § 22E-202. Conduct Requirement.\*
- § 22E-203. Voluntariness Requirement.\*
- § 22E-204. Causation Requirement.\*
- § 22E-205. Culpable Mental State Requirement.\*
- § 22E-206. Hierarchy of Culpable Mental States.\*
- § 22E-207. Rules of Interpretation Applicable to Culpable Mental State Requirement.\*
- § 22E-208. Principles of Liability Governing Accident, Mistake, and Ignorance.\*
- § 22E-209. Principles of Liability Governing Intoxication.\*
- § 22E-210. Accomplice Liability. {D.C. Code § 22-1805}
- § 22E-211. Liability for Causing Crime by an Innocent or Irresponsible Person.\*
- § 22E-212. Exclusions from Liability for Conduct of Another Person.\*
- § 22E-213. Withdrawal Defense to Legal Accountability.\*
- § 22E-214. Merger of Related Offenses.\*
- § 22E-215. De Minimis Defense.\*

**Chapter 3. Inchoate Liability.**

- § 22E-301. Criminal Attempt. {D.C. Code § 22-1803}
- § 22E-302. Solicitation. {D.C. Code § 2-2107}
- § 22E-303. Criminal Conspiracy. {D.C. Code § 22-1805a}
- § 22E-304. Limitation on Vicarious Liability for Conspirators.\*
- § 22E-305. Exceptions to General Inchoate Liability.\*
- § 22E-306. Renunciation Defense to Attempt, Conspiracy, and Solicitation.\*

**Chapter 4. Justification Defenses.**

- § 22E-401. Lesser Harm.\*
- § 22E-402. Execution of Public Duty.\*
- § 22E-403. Defense of Self or Another Person.\*
- § 22E-404. Defense of Property.\*
- [§ 22E-405. Reserved.]
- [§ 22E-406. Reserved.]
- [§ 22E-407. Reserved.]
- § 22E-408. Special Responsibility Defenses.\*

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

**Chapter 5. Excuse Defenses.**

- § 22E-501. Duress.\*
- § 22E-502. Temporary Possession.\*
- § 22E-503. Entrapment.\*
- § 22E-504. Mental Disability Defense.\*
- § 22E-505. Developmental Incapacity Defense.\*

**Chapter 6. Offense Classes, Penalties, & Enhancements.**

- § 22E-601. Offense Classifications.\*
- § 22E-602. Authorized Dispositions.\*
- § 22E-603. Authorized Terms of Imprisonment.\*
- § 22E-604. Authorized Fines. {D.C. Code §§ 22-3571.01; 22-3571.02}
- § 22E-605. Charging and Proof of Penalty Enhancements.\*
- § 22E-606. Repeat Offender Penalty Enhancements. {D.C. Code §§ 22-1804; 22-1804a}
- § 22E-607. Pretrial Release Penalty Enhancement. {D.C. Code § 23-1328}
- § 22E-608. Hate Crime Penalty Enhancement. {D.C. Code §§ 22-3701; 22-3703}
- § 22E-609. Hate Crime Penalty Enhancement Civil Provisions. {D.C. Code §§ 22-3702; 22-3704}
- § 22E-610. Abuse of Government Power Penalty Enhancement.\*

**Chapter 7. Definitions.**

- § 22E-701. Generally Applicable Definitions.\*

**Chapter 8.**

[Reserved.]

**Chapter 9.**

[Reserved.]

**SUBTITLE II. OFFENSES AGAINST PERSONS.**

**Chapter 10. Offenses Against Persons Subtitle Provisions.**

[Reserved.]

**Chapter 11. Homicide.**

- § 22E-1101. Murder. {D.C. Code §§ 22-2101; 22-2102; 22-2103, 22-2104; 22-2104.01; 22-2106}
- § 22E-1102. Manslaughter. {D.C. Code § 22-2105}
- § 22E-1103. Negligent Homicide. {D.C. Code § 50-2203.01}

**Chapter 12. Robbery, Assault, and Threats.**

- § 22E-1201. Robbery. {D.C. Code §§ 22-2801; 22-2802; 22-2803}
- § 22E-1202. Assault. {D.C. Code §§ 22-401 – 22-405; 22-406; 22-851; 22-3602}

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

[§ 22E-1203. Reserved.]

§ 22E-1204. Criminal Threats. {D.C. Code §§ 22-402; 22-404; 22-407; 22-1810}

§ 22E-1205. Offensive Physical Contact. {D.C. Code § 22-404}

### **Chapter 13. Sexual Assault and Related Provisions.**

§ 22E-1301. Sexual Assault. {D.C. Code §§ 22-3002; 22-3003; 22-3004; 22-3005; 22-3007; 22-3018; 22-3019; 22-3020}

§ 22E-1302. Sexual Abuse of a Minor. {D.C. Code §§ 22-3008; 22-3009; 22-3009.01; 22-3009.02; 22-3011; 22-3012; 22-3018; 22-3019; 22-3020}

§ 22E-1303. Sexual Abuse by Exploitation. {D.C. Code §§ 22-3009.03; 22-3009.04; 22-3013; 22-3014; 22-3015; 22-3016; 22-3017; 22-3018; 22-3019; 22-3020}

§ 22E-1304. Sexually Suggestive Conduct with a Minor. {D.C. Code §§ 22-3010.01; 22-3011; 22-3018; 22-3019; 22-3020}

§ 22E-1305. Enticing a Minor into Sexual Conduct. {D.C. Code §§ 22-1312; 22-3010; 22-3011; 22-3012; 22-3018; 22-3019; 22-3020}

§ 22E-1306. Arranging for Sexual Conduct with a Minor or Person Incapable of Consenting. {D.C. Code §§ 22-3010.02; 22-3018; 22-3019; 22-3020}

§ 22E-1307. Nonconsensual Sexual Conduct. {D.C. Code §§ 22-3006; 22-3007; 22-3018; 22-3019; 22-3020}

§ 22E-1308. Incest. {D.C. Code § 22-1901}

§ 22E-1309. Civil Provisions on the Duty to Report a Sex Crime. {D.C. Code §§ 22-3020.51; 22-3020.52; 22-3020.53; 22-3020.54; 22-3020.55}

§ 22E-1310. Admission of Evidence in Sexual Assault and Related Cases. {D.C. Code §§ 22-3021; 22-3022; 22-3023; 22-3024}

### **Chapter 14. Kidnapping, Criminal Restraint, and Blackmail.**

§ 22E-1401. Kidnapping. {D.C. Code § 22-2001}

§ 22E-1402. Criminal Restraint. {D.C. Code § 22-2001}

§ 22E-1403. Blackmail. {D.C. Code § 22-3252}

### **Chapter 15. Abuse and Neglect of Vulnerable Persons.**

§ 22E-1501. Criminal Abuse of a Minor. {D.C. Code §§ 22-1101; 22-1102}

§ 22E-1502. Criminal Neglect of a Minor. {D.C. Code §§ 22-1101; 22-1102}

§ 22E-1503. Criminal Abuse of a Vulnerable Adult or Elderly Person. {D.C. Code §§ 22-933; 22-934; 22-935; 22-936}

§ 22E-1504. Criminal Neglect of a Vulnerable Adult or Elderly Person. {D.C. Code §§ 22-933; 22-934; 22-935; 22-936}

### **Chapter 16. Human Trafficking.**

§ 22E-1601. Forced Labor. {D.C. Code §§ 22-1832; 22-1837}

§ 22E-1602. Forced Commercial Sex.\*

§ 22E-1603. Trafficking in Labor or Services. {D.C. Code §§ 22-1833; 22-1837}

§ 22E-1604. Trafficking in Forced Commercial Sex. {D.C. Code §§ 22-1833; 22-1837}

§ 22E-1605. Sex Trafficking of a Minor or Adult Incapable of Consenting. {D.C. Code §§ 22-1834; 22-1837; D.C. Code § 22-2704}

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

**CCRC Compilation of Draft Statutes for the Revised Criminal Code (RCC) (12-24-20)**

*Statutes have not been finalized by the CCRC or received final approval from the CCRC's Advisory Group.*

- § 22E-1606. Benefitting from Human Trafficking. {D.C. Code §§ 22-1836, 22-1837}
- § 22E-1607. Misuse of Documents in Furtherance of Human Trafficking. {D.C. Code §§ 22-1835; 22-1837}
- § 22E-1608. Commercial Sex with a Trafficked Person.\*
- § 22E-1609. Forfeiture. {D.C. Code § 22-1838}
- § 22E-1610. Reputation or Opinion Evidence. {D.C. Code § 22-1839}
- § 22E-1611. Civil Action. {D.C. Code § 22-1840}
- § 22E-1612. Limitation on Liabilities and Sentencing for RCC Chapter 16 Offenses.\*
- § 22E-1613. Civil Forfeiture. {D.C. Code § 22-2723}

**Chapter 17. Terrorism.**

- [§ 22E-1701. Acts of Terrorism. {D.C. Code §§ 22-3151; 22-3152; 22-3153; 22-3156}]
- [§ 22E-1702. Manufacture or Possession of a Weapon of Mass Destruction. {D.C. Code §§ 22-3154; 22-3152; 22-3156}]
- [§ 22E-1703. Use, Dissemination, or Detonation of a Weapon of Mass Destruction. {D.C. Code §§ 22-3155; 22-3152; 22-3156}]

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

- § 22E-1801. Stalking. {D.C. Code §§ 22-3131 – 3135}
- § 22E-1802. Electronic Stalking. {D.C. Code §§ 22-3131 – 3135}
- § 22E-1803. Voyeurism. {D.C. Code § 22-3531}
- § 22E-1804. Unauthorized Disclosure of a Sexual Recording. {D.C. Code §§ 22-3051 – 3057; 22-3531(f)(2)}
- § 22E-1805. Distribution of an Obscene Image. {D.C. Code § 22-2201(a)}
- § 22E-1806. Distribution of an Obscene Image to a Minor. {D.C. Code § 22-2201(b)}
- § 22E-1807. Creating or Trafficking an Obscene Image of a Minor. {D.C. Code §§ 22-3101 – 3104}
- § 22E-1808. Possession of an Obscene Image of a Minor. {D.C. Code §§ 22-3101 – 3104}
- § 22E-1809. Arranging a Live Sexual Performance of a Minor. {D.C. Code §§ 22-3101 – 3104}
- § 22E-1810. Attending or Viewing a Live Sexual Performance of a Minor. {D.C. Code §§ 22-3101 – 3104}

**Chapter 19.**

[Reserved.]

**SUBTITLE III. PROPERTY OFFENSES.**

**Chapter 20. Property Offense Subtitle Provisions.**

- § 22E-2001. Aggregation to Determine Property Offense Grades. {D.C. Code § 22-3202}
- [§ 22E-20XX. Jurisdiction. {D.C. Code §§ 22-1808; 22-3204}]

**Chapter 21. Theft.**

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

**CCRC Compilation of Draft Statutes for the Revised Criminal Code (RCC) (12-24-20)**

*Statutes have not been finalized by the CCRC or received final approval from the CCRC's Advisory Group.*

- § 22E-2101. Theft. {D.C. Code §§ 22-601; 22-3211; 22-3212}
- § 22E-2102. Unauthorized Use of Property. {D.C. Code § 22-3216}
- § 22E-2103. Unauthorized Use of a Motor Vehicle. {D.C. Code § 22-3215}
- § 22E-2104. Shoplifting. {D.C. Code § 22-3213}
- § 22E-2105. Unlawful Creation or Possession of a Recording. {D.C. Code § 22-3214}
- § 22E-2106. Unlawful Operation of a Recording Device in a Motion Picture Theater. {D.C. Code § 22-3214.02}

**Chapter 22. Fraud.**

- § 22E-2201. Fraud. {D.C. Code §§ 22-3221; 22-3222; 22-3224.01}
- § 22E-2202. Payment Card Fraud. {D.C. Code §§ 22-3223; 22-3224.01}
- § 22E-2203. Check Fraud. {D.C. Code § 22-1510}
- § 22E-2204. Forgery. {D.C. Code §§ 22-3241; 22-3242}
- § 22E-2205. Identity Theft. {D.C. Code §§ 22-3227.01 - 22-3227.04; 22-3227.06 - 22-3227.08}
- § 22E-2206. Identity Theft Civil Provisions. {D.C. Code § 22-3227.05}
- § 22E-2207. Unlawful Labeling of a Recording. {D.C. Code § 22-3214.01}
- § 22E-2208. Financial Exploitation of a Vulnerable Adult or Elderly Person. {D.C. Code § 22-933.01}
- § 22E-2209. Financial Exploitation of a Vulnerable Adult or Elderly Person Civil Provisions. {D.C. Code §§ 22-937 – 22-938}
- § 22E-2210. Trademark Counterfeiting. {D.C. Code §§ 22-901 – 902; 22-1502}

**Chapter 23. Extortion.**

- § 22E-2301. Extortion. {D.C. Code § 22-3251}

**Chapter 24. Stolen Property.**

- § 22E-2401. Possession of Stolen Property. {D.C. Code § 22-3232}
- § 22E-2402. Trafficking of Stolen Property. {D.C. Code § 22-3231}
- § 22E-2403. Alteration of Motor Vehicle Identification Number. {D.C. Code § 22-3233}
- § 22E-2404. Alteration of Bicycle Identification Number. {D.C. Code § 22-3234}

**Chapter 25. Property Damage.**

- § 22E-2501. Arson. {D.C. Code § 22-301; 22-302}
- § 22E-2502. Reckless Burning. {D.C. Code § 22-301; 22-302}
- § 22E-2503. Criminal Damage to Property. {D.C. Code §§ 22-303; 22-3305; 22-3306; 22-3307; 22-3310}
- § 22E-2504. Criminal Graffiti. {D.C. Code §§ 22-3312.01; 22-3312.04; 2-3312.05}

**Chapter 26. Trespass.**

- § 22E-2601. Trespass. {D.C. Code §§ 22-1341; 22-3301; 22-3302}

**Chapter 27. Burglary.**

- § 22E-2701. Burglary. {D.C. Code § 22-801}

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

§ 22E-2702. Possession of Tools to Commit Property Crime. {D.C. Code §§ 22-2501; 24-403.01(f)(3)}

**Chapter 28.**

[Reserved.]

**Chapter 29.**

[Reserved.]

**SUBTITLE IV. OFFENSES AGAINST GOVERNMENT OPERATION.**

**Chapter 30. Offenses Against Government Operation Subtitle Provisions.**

[Reserved.]

**Chapter 31. Bribery, Improper Influence, and Official Misconduct.**

[§ 22E-31XX. Corrupt Influence. {D.C. Code § 22-704}]

[§ 22E-31XX. Bribery. {D.C. Code §§ 22-711 – 22-713}]

**Chapter 32. Perjury and Other Official Falsification Offenses.**

§ 22E-3201. Impersonation of an Official. {D.C. Code §§ 22-1404 – 1406; 22-1409}

§ 22E-3202. Misrepresentation as a District of Columbia Entity. {D.C. Code §§ 22-3401-3403}

[§ 22E-32XX. Impersonation of another before court or officer. {D.C. Code § 22-1403}]

[§ 22E-32XX. Perjury. {D.C. Code § 22-2402}]

[§ 22E-32XX. Subornation of Perjury. {D.C. Code § 22-2403}]

[§ 22E-32XX. False Swearing. {D.C. Code § 22-2404}]

[§ 22E-32XX. False Statements. {D.C. Code § 22-2405}]

**Chapter 33. Offenses Involving Obstruction of Governmental Operations.**

[§ 22E-33XX. Tampering with Physical Evidence. {D.C. Code § 22-723}]

[§ 22E-33XX. Obstruction of Justice. {D.C. Code §§ 22-721 – 22-722}]

[§ 22E-33XX. False alarms and false reports; hoax weapons. {D.C. Code § 22-1319}]

[§ 22E-33XX. Fraudulent interference or collusion in jury selection. {D.C. Code § 22-1514}]

[§ 22E-33XX. Accessories after the fact. {D.C. Code § 22-1806}]

[§ 22E-33XX. Obstructing, preventing, or interfering with reports to or requests for assistance from law enforcement agencies, medical providers, or child welfare agencies. {D.C. Code § 22-1931}]

**Chapter 34. Government Custody.**

§ 22E-3401. Escape from a Correctional Facility or Officer. {D.C. Code §§ 22-2601; 10-509.01a}

§ 22E-3402. Tampering with a Detection Device. {D.C. Code § 22-1211}

§ 22E-3403. Correctional Facility Contraband. {D.C. Code §§ 22-2603.01 – 22-2603.04}

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1



[§ 22E-3404. Resisting Arrest. {D.C. Code § 22-405.01}]

[§ 22E-34XX. Fleeing or Eluding. {D.C. Code §§ 50-2201.05b; 50-301.34}]

**Chapter 35.**

[Reserved.]

**Chapter 36.**

[Reserved.]

**Chapter 37.**

[Reserved.]

**Chapter 38.**

[Reserved.]

**Chapter 39.**

[Reserved.]

**SUBTITLE V. PUBLIC ORDER AND SAFETY OFFENSES.**

**Chapter 40. Public Order and Safety Offenses Subtitle Provisions.**

[Reserved.]

**Chapter 41. Weapon Offenses and Related Provisions.**

- § 22E-4101. Possession of a Prohibited Weapon or Accessory. {D.C. Code §§ 7-2506.01(a)(3); 7-2506.01(b); 22-4514(a); 22-4515a(a) and (c)}
- § 22E-4102. Carrying a Dangerous Weapon. {D.C. Code §§ 22-4502.01; 22-4504(a) – (a-1); 22-4504.01}
- § 22E-4103. Possession of a Dangerous Weapon with Intent to Commit Crime. {D.C. Code §§ 22-4514(b); 22-4515a(b)}
- § 22E-4104. Possession of a Dangerous Weapon During a Crime. {D.C. Code §§ 22-4502 and 22-4504(b)}
- § 22E-4105. Possession of a Firearm by an Unauthorized Person. {D.C. Code § 22-4503}
- § 22E-4106. Negligent Discharge of Firearm. {D.C. Code §§ 22-4503.01; 24 DCMR § 2300.1 – 3}
- § 22E-4107. Alteration of a Firearm Identification Mark. {D.C. Code §§ 7-2505.03(d); 22-4512}
- § 22E-4108. Civil Provisions for Prohibitions of Firearms on Public or Private Property. {D.C. Code § 22-4503.02}
- § 22E-4109. Civil Provisions for Lawful Transportation of a Firearm or Ammunition. {D.C. Code § 22-4504.02}
- § 22E-4110. Civil Provisions for Issuance of a License to Carry a Pistol. {D.C. Code § 22-4506}
- § 22E-4111. Unlawful Sale of a Pistol. {D.C. Code § 22-4507}

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

**CCRC Compilation of Draft Statutes for the Revised Criminal Code (RCC) (12-24-20)**

*Statutes have not been finalized by the CCRC or received final approval from the CCRC's Advisory Group.*

- § 22E-4112. Unlawful Transfer of a Firearm. {D.C. Code § 22-4508}
- § 22E-4113. Sale of Firearm Without a License. {D.C. Code § 22-4509}
- § 22E-4114. Civil Provisions for Licenses of Firearms Dealers. {D.C. Code § 22-4510}
- § 22E-4115. Unlawful Sale of a Firearm by a Licensed Dealer. {D.C. Code § 22-4510}
- § 22E-4116. Use of False Information for Purchase or Licensure of a Firearm. {D.C. Code § 22-4511}
- § 22E-4117. Civil Provisions for Taking and Destruction of Dangerous Articles. {D.C. Code § 22-4517}
- § 22E-4118. Exclusions from Liability for Weapon Offenses. {D.C. Code §§ 22-4504.01; 22-4505}
- § 22E-4119. Limitation on Convictions for Multiple Related Weapon Offenses.\*
- § 22E-4120. Endangerment with a Firearm.\*

**Chapter 42. Breaches of Peace.**

- § 22E-4201. Disorderly Conduct. {D.C. Code §§ 22-1301; 22-1321; 22-1809}
- § 22E-4202. Public Nuisance. {D.C. Code § 22-1321}
- § 22E-4203. Blocking a Public Way. {D.C. Code §§ 22-1307; 22-1318; 22-1323; 22-3319; 22-3321; 22-3322}
- § 22E-4204. Unlawful Demonstration. {D.C. Code §§ 22-1307; 10-503.17}
- § 22E-4205. Breach of Home Privacy. {D.C. Code § 22-1321(f)}
- § 22E-4206. Indecent Exposure. {D.C. Code § 22-1312}
- [§ 22E-42XX. Throwing Stones or Other Missiles. {D.C. Code § 22-1309}]
- [§ 22E-42XX. Kindling Bonfires. {D.C. Code § 22-1313}]
- [§ 22E-42XX. Protest Targeting a Residence. {D.C. Code § 22-2751}]
- [§ 22E-42XX. Interference with Access to a Medical Facility. {D.C. Code §§ 22-1314.01; 22-1314.02}]
- [§ 22E-42XX. Defacing or Burning Cross or Religious Symbol; Display of Certain Emblems. {D.C. Code §§ 22-3312.02; 22-3312.04}]
- [§ 22E-42XX. Wearing hoods or masks. {D.C. Code §§ 22-3312.03; 22-3312.02}]
- [§ 22E-42XX. Disorderly Conduct in Public Buildings or Grounds; Injury to or Destruction of United States Property. {D.C. Code § 22-3311}]

**Chapter 43. Group Misconduct.**

- § 22E-4301. Rioting. {D.C. Code § 22-1322}
- § 22E-4302. Failure to Disperse.\*
- [§ 22E-43XX. Criminal Gangs. {D.C. Code § 22-951}]

**Chapter 44. Prostitution and Related Statutes.**

- § 22E-4401. Prostitution. {D.C. Code §§ 22-2701; 22-2701.01; 22-2703; 22-2724; 22-2725; 22-2713 – 22-2720}
- § 22E-4402. Patronizing Prostitution. {D.C. Code §§ 22-2701; 22-2701.01; 22-2703; 22-2713 – 22-2720; 22-2724; 22-2725}
- § 22E-4403. Trafficking in Commercial Sex. {D.C. Code §§ 22-2701.01; 22-2705; 22-2707; 22-2710; 22-2711; 22-2712; 22-2722; 22-2713 – 22-2720; 22-2724; 22-2725}

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

§ 22E-4404. Civil Forfeiture. {D.C. Code § 22-2723; 22-2724; 22-2725}

#### **Chapter 45. Cruelty to Animals.**

[§ 22E-45XX. Protection of Police Animals. {D.C. Code § 22-861}]

[§ 22E-45XX. Cruelty to Animals. {D.C. Code §§ 22-1001 – 22-1013}]

[§ 22E-45XX. Urging Dogs to Fight or Create Disorder. {D.C. Code § 22-1310}]

#### **Chapter 46. Offenses Against the Family and Youth.**

§ 22E-4601. Contributing to the Delinquency of a Minor. {D.C. Code § 22-811}

[§ 22E-46XX. Bigamy. {D.C. Code § 22-501}]

#### **Chapter 47. Gambling.**

§ 22E-47XX. Promotion, sale, or possession of lottery tickets. {D.C. Code § 22-1701}]

§ 22E-47XX. Possession of lottery or policy tickets. {D.C. Code § 22-1702}]

§ 22E-47XX. Permitting sale of lottery tickets on premises. {D.C. Code § 22-1703}]

§ 22E-47XX. Gaming; setting up gaming table; inducing play. {D.C. Code § 22-1704}]

§ 22E-47XX. Gambling premises; definition; prohibition against maintaining; forfeiture; liens; deposit of moneys in Treasury; penalty; subsequent offenses. {D.C. Code § 22-1705}]

§ 22E-47XX. Three-card monte and confidence games. {D.C. Code § 22-1706}]

§ 22E-47XX. “Gaming table” defined. {D.C. Code § 22-1707}]

[§ 22E-47XX. Gambling pools and bookmaking; athletic contest defined. {D.C. Code § 22-1708}]

[§ 22E-47XX. Corrupt influence in connection with athletic contests. {D.C. Code § 22-1713}]

[§ 22E-47XX. Immunity of witnesses; record. {D.C. Code § 22-1714}]

[§ 22E-47XX. Statement of purpose. {D.C. Code § 22-1716}]

[§ 22E-47XX. Permissible gambling activities. {D.C. Code § 22-1717}]

[§ 22E-47XX. Advertising and promotion; sale and possession of lottery and numbers tickets and slips. {D.C. Code § 22-1718}]

#### **Chapter 48. Environmental Offenses.**

[§ 22E-49XX. Malicious Pollution of Water {D.C. Code § 22-3318}]

[§ 22E-49XX. Throwing or depositing matter in Potomac River. {D.C. Code § 22-4402}]

[§ 22E-49XX. Deposits of deleterious matter in Rock Creek or Potomac River. {D.C. Code §§ 22-4403; 22-4404}]

### **SUBTITLE VI. OTHER OFFENSES.**

#### **Chapter 50.**

[Reserved.]

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

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

- § 7-2502.01A. Possession of an Unregistered Firearm, Destructive Device, or Ammunition. {D.C. Code §§ 7-2502.01(a); 7-2506.01(a); 7-2507.06(a)(2) – (4) and (b); 24 DCMR § 2343.2}
- § 7-2502.15. Possession of a Stun Gun. {D.C. Code § 7-2502.15; 7-2507.06(b)(1)(E)}
- § 7-2502.17. Carrying an Air or Spring Gun. {24 DCMR § 2301}
- § 7-2507.02A. Unlawful Storage of a Firearm. {D.C. Code § 7-2507.02; 24 DCMR § 2348}
- § 7-2509.06A. Carrying a Pistol in an Unlawful Manner. {24 DCMR §§ 2343.1; 2344}
- § 16-705. Jury trial; trial by court. {D.C. Code § 16-705}
- § 16-1005A. Criminal Contempt for Violation of a Civil Protection Order. {D.C. Code §§ 16-1005(f) – (i)}
- § 16-1021. Parental Kidnapping Definitions. {D.C. Code § 16-1021}
- § 16-1022. Parental Kidnapping Criminal Offense. {D.C. Code §§ 16-1022-1025}
- § 16-1023. Protective Custody and Return of Child. {D.C. Code § 16-1023}
- § 16-1024. Expungement of Parental Kidnapping Conviction. {D.C. Code § 16-1026}
- § 23-586. Failure to Appear after Release on Citation or Bench Warrant Bond. {D.C. Code § 23-585(b)}
- § 23-1327. Failure to Appear in Violation of a Court Order. {D.C. Code § 23-1327}
- § 23-1329A. Criminal Contempt for Violation of a Release Condition. {D.C. Code § 23-1329(a-1) and (c)}
- § 24-241.05A. Violation of Work Release. {D.C. Code § 24-241.05(b)}
- § 24-403.03. Modification of an imposed term of imprisonment.
- § 25-1001. Possession of an Open Container or Consumption of Alcohol in a Motor Vehicle. {D.C. Code § 25-1001}
- § 48-904.01a. Possession of a Controlled Substance. {D.C. Code §§ 48-904.01(d)(1); 48-904.08; 48-904.09}
- § 48-904.01b. Trafficking of a Controlled Substance. {D.C. Code §§ 48-904.01(a)(1); 48-904.06; 48-904.07; 48-904.07a; 48-904.08; 48-904.09}
- § 48-904.01c. Trafficking of a Counterfeit Substance. {D.C. Code §§ 48-904.01(b)(1); 48-904.08; 48-904.09}
- § 48-904.10. Possession of Drug Manufacturing Paraphernalia. {D.C. Code §§ 48-904.10; 48-1102; D.C. Code § 48-1101 (3) ; 48-1103(a)(1)}
- § 48-904.11. Trafficking of Drug Paraphernalia. {D.C. Code §§ 48-1102; 48-1103(b)(1)}
- § 48-904.12. Maintaining Methamphetamine Production. {D.C. Code § 48-904.03a}
- [§ 48-904.02. [Controlled Substances] Prohibited Acts B.]
- [§ 48-904.03. [Controlled Substances] Prohibited Acts C.]

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
 [...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

### **D.C. Code Statutes Recommended for Repeal**

- § 3-206. Unlawful acts.\*\*
- § 4-125. Assisting child to leave institution without authority; concealing such child; duty of police.\*\*
- § 5-115.03. Neglect to Make Arrest for Offense Committed in Presence.
- §§ 7-2502.12 – 7-2502.13. Possession of self-defense sprays.
- § 8-305. Penalty.\*\*
- § 9-433.01. Permit required; exceptions.\*\*
- § 9-433.02. Penalty; prosecution.\*\*
- § 22-1003. Rest, water and feeding for animals transported by railroad company.\*\*
- § 22-1012(a). Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.\*\*
- § 22-1308. Playing games in streets.\*\*
- § 22-1311. Allowing dogs to go at large.
- [§ 22-1317. Flying fire balloons or parachutes.]
- [§ 22-1402. Recordation of deed, contract, or conveyance with intent to extort money.]
- §§ 22-1511 – 22-1513. Fraudulent Advertising.
- [§ 22-1807. Punishment for offenses not covered by provisions of Code.]
- §§ 22-2301 – 22-2306. Panhandling.
- § 22-3224. Fraudulent registration.
- § 22-3303. Grave robbery; burying or selling dead bodies.\*\*
- § 22-3309. Destroying boundary markers.\*\*
- § 22-3313. Destroying or defacing building material for streets.\*\*
- § 22-3314. Destroying cemetery railing or tomb.\*\*
- § 22-3320. Obstructing public road; removing milestones.\*\*
- § 34-701. False statements in securing approval for stock issue.\*\*
- § 34-707. Destruction of apparatus or appliance of Commission\*\*
- § 36-153. Unauthorized use, defacing, or sale of registered vessel.\*\*
- § 37-131.08(b). Penalties for Illegal vending.
- § 47-102. Total indebtedness not to be increased.\*\*
- § 48-904.07. Enlistment of minors to distribute.

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
 [...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

**D.C. Code Statutes Recommended for Relocation Out of D.C. Code Title 22**

- § 22-1841. [Human Trafficking] Data collection and dissemination.
- § 22-1842. [Human Trafficking] Training program.
- § 22-1843. Public posting of human trafficking hotline.
- §§ 22-3218.01 – 22-3218.04. Theft of Utility Service.
- §§ 22-3225.01 – 22-3225.15. Insurance Fraud.
- §§ 22-3226.01 – 22-3226.15. Telephone Fraud.
- §§ 22-3704. [Bias-Related Crime] Civil Action.
- § 22-3803. [Sexual Psychopaths] Definitions.
- § 22-3804. [Sexual Psychopaths] Filing of statement.
- § 22-3805. [Sexual Psychopaths] Right to counsel.
- § 22-3806. [Sexual Psychopaths] Examination by psychiatrists.
- § 22-3807. [Sexual Psychopaths] When hearing is required.
- § 22-3808. [Sexual Psychopaths] Hearing; commitment.
- § 22-3809. [Sexual Psychopaths] Parole; discharge.
- § 22-3810. [Sexual Psychopaths] Stay of criminal proceedings.
- § 22-3811. [Sexual Psychopaths] Criminal law unchanged.
- § 22-3901. [HIV Testing of Certain Criminal Offenders] Definitions.
- § 22-3902. [HIV Testing of Certain Criminal Offenders] Testing and counselling.
- § 22-3903. [HIV Testing of Certain Criminal Offenders] Rules.
- Title 22 Chapter 40. Sex Offender Registration.
- Title 22 Chapter 41a. DNA Testing and Post-Conviction Relief For Innocent Persons.
- Title 22 Chapter 41b. DNA Sample Collection.
- Title 22 Chapter 42. National Institute of Justice Appropriations.
- Title 22 Chapter 42a. Criminal Justice Coordinating Council.
- Title 22 Chapter 42b. Homicide Elimination.

\* No corresponding statute in current D.C. Code. {...} Corresponding statute(s) in D.C. Code  
[...] Possible or planned RCC statute, no draft to date. \*\* Recommended for Repeal in CCRC Report #1

## **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 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, the structure, purpose, and history of the provision also may be examined.
- (b) *Rule of lenity.* If the meaning of a statutory provision remains 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 headings and 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 interaction of Title 22E with provisions in other laws.* Unless otherwise expressly specified by statute, a provision in this title applies to this title only.
- (b) *Interaction of Title 22E with civil provisions in other laws.* Unless expressly specified by this title or otherwise provided by law, 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 specified by statute, the provisions in subtitle I of this title apply to all other provisions of this title.

## Chapter 2. Basic Requirements of Offense Liability.

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

- (a) *Proof of offense elements beyond a reasonable doubt.* No person may be convicted of an offense unless the government proves each offense element beyond a reasonable doubt.
- (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.
- (c) *“Offense element” defined.* “Offense element” includes the objective elements and culpability requirement necessary to establish liability for an offense.
- (d) *“Objective element” defined.* “Objective element” means any conduct element, result element, or circumstance element. For purposes of this title:
  - (4) “Conduct element” means any act or omission that is required to establish liability for an offense;
  - (5) “Result element” means any consequence caused by a person’s act or omission that is required to establish liability for an offense; and
  - (6) “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.
- (e) *“Culpability requirement” defined.* “Culpability requirement” includes:
  - (7) The voluntariness requirement, as provided in RCC § 22E-203(a);
  - (8) The culpable mental state requirement, as provided in RCC § 22E-205(a); and
  - (9) Any other aspect of culpability specifically required for an offense.
- (f) *Definitions.*
  - (10) “Act” has the meaning specified in RCC § 22E-202(b).
  - (11) “Omission” has the meaning specified in RCC § 22E-202(c).

### RCC § 22E-202. Conduct Requirement.

- (a) *Conduct 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) Aware that the legal duty to act exists; or
    - (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 required for 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) *Definitions.*
  - (1) "Conduct element" has the meaning specified in RCC § 22E-201(d)(1).
  - (2) "Act" has the meaning specified in RCC § 22E-202(b).
  - (3) "Omission" has the meaning specified in RCC § 22E-202(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) When the conduct of 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 foreseeable in its manner of occurrence; and
  - (2) When the result depends on another person's volitional conduct, the actor is justly held responsible for the result.
- (d) *Definitions.*
  - (1) "Result element" has the meaning specified in RCC § 22E-201(d)(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 for that offense, 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) *Definitions.*
  - (1) “Result element” has the meaning specified in RCC § 22E-201(d)(2).
  - (2) “Circumstance element” has the meaning specified in RCC § 22E-201(d)(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.* 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.* 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.* 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 other parts of speech.
- (h) *Definitions.*
  - (1) "Result element" has the meaning specified in RCC § 22E-201(d)(2).
  - (2) "Circumstance element" has the meaning specified in RCC § 22E-201(d)(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.
- (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) *Recklessness 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(d)(2).
  - (3) “Circumstance elements” has the meaning specified in RCC § 22E-201(d)(3).
  - (4) “Strict liability” and “strictly liable” have the meanings specified in RCC § 22E-205(c).
  - (5) “Recklessly” has the meaning 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 for that offense.
- (b) *Relationship between mistake and culpable mental state requirements.* 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.* Any mistake as to a circumstance element negates the existence of the purpose applicable to that element.
  - (2) *Knowledge or intent.* Any mistake as to a circumstance element negates the existence of the knowledge or intent applicable to that element.
  - (3) *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 make that mistake recklessly.
  - (4) *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 make that mistake negligently.
- (c) *Mistake or ignorance as to criminality.* A person may be held liable for an offense 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) Whether conduct constitutes that offense; or
    - (B) The existence, meaning, or application of the law defining an offense;
 or
  - (2) Satisfies the requirements of a general defense under RCC § 22E-40[X].

- (d) *Imputation of knowledge for deliberate ignorance.* Knowledge of a circumstance is established if the person:
- (1) Is reckless as to whether the circumstance exists; and
  - (2) With the purpose of avoiding criminal liability, avoids confirming or fails to investigate whether the circumstance exists.
- (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(d)(2).
  - (3) “Circumstance element” has the meaning specified in RCC § 22E-201(d)(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 for that offense.
- (b) *Relationship between intoxication and culpable mental state requirements.* Intoxication negates the existence of a culpable mental state applicable to a result element or circumstance element as follows:
- (1) *Purpose.* Intoxication negates the existence of purpose when, due to the person’s intoxicated state, that person does not consciously desire to cause the result or that the circumstance exist.
  - (2) *Knowledge or Intent.* Intoxication negates the existence of knowledge or intent when, due to the person’s intoxicated state, that person is not practically certain the result will occur or that the circumstance exists.
  - (3) *Recklessness.* Except as provided in subsection (c) of this section, intoxication negates the existence of recklessness when, due to the 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.* Intoxication negates the existence of negligence when, due to the 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.* Recklessness toward a result or circumstance is established if:
- (1) 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 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) *"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 substance:
    - (A) A person knowingly introduces into 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 not been introduced under medical advice a licensed health professional or under circumstances that would afford a general defense under RCC § 22E-40[X].
- (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(d)(2).
  - (3) "Circumstance element" has the meaning specified in RCC § 22E-201(d)(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 for that offense, the person:
  - (1) Purposely assists another person with the planning or commission of conduct constituting that offense; or
  - (2) 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 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 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;
  - (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(e).
  - (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(d)(3).
  - (5) “Result elements” has the meaning specified in RCC § 22E-201(d)(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 for that offense, the person causes an innocent or irresponsible person to engage in conduct constituting an offense.
- (b) *“Innocent or irresponsible person” defined.* “Innocent or irresponsible person” 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 under subsection (a) of this section.
- (d) *Definitions.*
  - (1) “Culpability” has the meaning specified in RCC § 22E-201(d).
  - (2) “Culpable mental state” has the meaning specified in RCC § 22E-205(b).

**RCC § 22E-212. Exclusions from Liability for Conduct of Another Person.**

Unless otherwise expressly specified by statute, a person is not liable for the conduct of another under RCC § 22E-210 or RCC § 22E-211 when: the person is a victim of the offense; or the person’s conduct is inevitably incident to commission of the offense.

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

- (a) *Withdrawal 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 is committed, and:
  - (1) Wholly deprives his or her prior efforts of their effectiveness;
  - (2) Gives timely warning to the appropriate law enforcement authorities; or
  - (3) Makes reasonable efforts to prevent the commission of the offense.
- (b) *Definitions.* The term “in fact” has the meaning specified in RCC § 22E-207.

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

- (a) *Merger of multiple related offenses.* Multiple convictions for 2 or more offenses arising from the same course of conduct merge when:
  - (1) One offense is necessarily established by proof of the 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 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 of:
    - (A) The other offense; or
    - (B) An offense that is related to 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.* This section is inapplicable whenever the legislature clearly expresses an intent to authorize multiple convictions for different offenses arising from the same course of conduct.
- (c) *Rule of priority.* When 2 or more convictions for different offenses arising from the same course of conduct merge, the 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 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 appealed from has been decided.

#### **RCC § 22E-215. De Minimis Defense.**

- (a) *De minimis defense.* It is an affirmative defense to any misdemeanor or a Class 6, 7, 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, 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.
- (c) *Limitation.* This affirmative defense is unavailable in a situation reasonably envisioned by the legislature when forbidding the charged offense.
- (d) *Specific findings.* 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:
  - (1) Plans to engage in conduct constituting that offense;
  - (2) With the culpability required for that offense; and
  - (3) Engages in conduct that is reasonably adapted to completion of that offense; and:
    - (A) Comes dangerously close to completing that offense; or
    - (B) Would have come dangerously close to completing that offense if the situation was as the person perceived it to be.
- (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 result elements required 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.*
  - (1) An attempt to commit an offense is subject to not more than one-half the maximum term of imprisonment or fine applicable to that offense, after the application of any penalty enhancements, unless a different penalty is specified in paragraph (d)(2) of this section.

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

(e) *Definitions.*

- (1) “Intent” has the meaning specified in RCC § 22E-206(c).  
(2) “Result element” has the meaning specified in RCC § 22E-201(d)(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 for that offense, 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, 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, a person must:

- (1) Intend to cause all result elements required for that offense; and  
(2) Intend for all circumstance elements required 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, if the defendant does everything they plan to do to transmit the message to the intended recipient.

(d) *Penalties.*

- (1) A solicitation to commit an offense is subject to not more than one-half the maximum term of imprisonment or fine applicable to that offense, after the application of any penalty enhancements, unless a different penalty is specified in paragraph (d)(2) of this section.  
(2) Notwithstanding paragraph (d)(1) of this section, 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 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 result elements required for that offense; and
  - (2) Intend for all circumstance elements required for that offense to exist.
- (c) *Penalties.*
  - (1) A conspiracy to commit an offense is subject to not more than one-half the maximum term of imprisonment or fine applicable to that offense, after the application of any penalty enhancements, unless a different punishment is specified in paragraph (c)(2) of this section.
  - (2) Notwithstanding paragraph (c)(1) of this section, a conspiracy 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 outside the District.* When the object of a conspiracy formed inside the District is to engage in conduct outside the District, the conspiracy is a violation of this section only if:
  - (1) The conduct would constitute a criminal offense under the statutory laws of the District if performed in the District; and
  - (2) The conduct would 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 even if performed outside the District.
- (e) *Jurisdiction when conspiracy is formed outside the District.* A conspiracy formed outside the District to engage in conduct inside the District is a violation of this section if:
  - (1) The conduct would constitute a criminal offense under the statutory laws of the District if performed within the District; and
  - (2) An overt act in furtherance of the conspiracy is committed within the District.
- (f) *Legality of conduct in other jurisdiction no defense.* When paragraphs (e)(1) and (e)(2) of this section are proven, it is not a defense to a prosecution for conspiracy that the conduct that is the object of the conspiracy would not constitute a criminal offense under the 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. Limitation on Vicarious Liability for Conspirators.**

- (a) A person who is a party to a criminal conspiracy as defined under RCC § 22E-303 shall not be liable for an offense committed by another party to the conspiracy, unless:

- (b) Either:
  - (1) The person satisfies the requirements for criminal liability specified in RCC § 22E-210, RCC § 22E-211, or RCC § 22E-302; or
  - (2) Expressly specified by statute that a party to a conspiracy may be held criminally liable for an offense committed by another party to the conspiracy.

#### **RCC § 22E-305. Exceptions to General Inchoate Liability.**

- (a) *Exceptions to general inchoate liability.* A person is not guilty of solicitation under RCC § 22E-302 or conspiracy 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 specified by an individual offense.

#### **RCC § 22E-306. Renunciation Defense to Attempt, Conspiracy, and Solicitation.**

- (a) *Renunciation defense.* It is an affirmative defense to a prosecution for an attempt, solicitation, or conspiracy that:
  - (1) The defendant 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.* A renunciation is not "voluntary and complete" 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) *Definitions.*
  - (1) "Intent" has the meaning specified in RCC § 22E-206(c)

### **Chapter 4. Justification Defenses.**

#### **RCC § 22E-401. Lesser Harm.**

- (a) *Defense.* It is a defense that, in fact, the actor:
  - (1) Reasonably believes the actor or another person is in imminent danger of a specific, identifiable harm;

- (2) Reasonably believes the conduct constituting the offense:
  - (A) Will protect against the harm; and
  - (B) Is necessary in degree; and
- (3) The conduct constituting the offense brings about a significantly lesser harm than that the actor seeks to avoid.
- (b) *Exceptions.* This defense is not available when:
  - (1) Recklessness is the culpable mental state for an objective element of the offense and the person recklessly brings about the situation requiring a choice of harms;
  - (2) Negligence is the culpable mental state for an objective element of the offense and the person negligently brings about the situation requiring a choice of harms; or
  - (3) The conduct constituting the offense is expressly addressed by another available defense, affirmative defense, or exclusion from liability.
- (c) *Definitions.* The term “objective element” has the meaning specified in RCC § 22E-201; the terms “recklessly” and “negligently” have the meanings specified in RCC § 22E-206; and the term “in fact” has the meaning specified in RCC § 22E-207.

#### **RCC § 22E-402. Execution of Public Duty.**

- (a) *Defense.* It is a defense that, in fact:
  - (1) The conduct constituting the offense is required or authorized by law, including:
    - (A) A court order;
    - (B) A law governing the armed services or the lawful conduct of war;
    - (C) A law defining the duties or functions of a public official;
    - (D) A law defining the assistance to be rendered to a public official in the performance of their official duties;
    - (E) A law governing the execution of legal process; or
    - (F) Any other provision of law imposing a public duty;
  - (2) The person reasonably believes the conduct constituting the offense is required or authorized by a court order or warrant; or
  - (3) The person reasonably believes the conduct constituting the offense is required or authorized by law to assist a public official in the performance of their official duties.
- (b) *Exceptions.*
  - (1) This defense is not available in a situation that is expressly addressed by another available defense, affirmative defense, or exclusion from liability.
  - (2) This defense is not available when the conduct constituting the offense is the use of deadly force, unless that use of deadly force:
    - (A) Is expressly authorized by law; or
    - (B) Occurs in the lawful conduct of war.
- (c) *Definitions.* The term “in fact” has the meaning specified in RCC § 22E-207; and the term “public official” has the meaning specified in RCC § 22E-701.

**RCC § 22E-403. Defense of Self or Another Person.**

- (a) *Defense.* It is a defense that, in fact, the actor reasonably believes:
  - (1) The actor or another person is in imminent danger of a physical contact, bodily injury, sexual act, sexual contact, confinement, or death; and
  - (2) The conduct constituting the offense:
    - (A) Will protect against the harm; and
    - (B) Is necessary in degree.
- (b) *Exceptions.* This defense is not available when:
  - (1) In fact, the actor uses or attempts to use deadly force, unless the actor reasonably believes:
    - (A) The actor or another person is in imminent danger:
      - (i) Of a serious bodily injury, a sexual act, confinement, or death; or
      - (ii) While in their individual dwelling unit, of a bodily injury or a sexual contact; and
    - (B) The conduct constituting the offense:
      - (i) Will protect against the harm; and
      - (ii) Is necessary in degree;
  - (2) The actor purposely, through conduct other than speech or presence alone, provokes or brings about the situation requiring the defense and, in fact, does not withdraw or make reasonable efforts to withdraw; or
  - (3) The actor is reckless as to the fact that they are protecting themselves or another from lawful conduct.
- (c) *Use of deadly force by a law enforcement officer.* When, in fact, the actor is a law enforcement officer who uses or attempts to use deadly force, a factfinder shall include consideration of all of the following when determining whether the actor satisfies the requirements of the defense:
  - (1) The law enforcement officer's training and experience;
  - (2) Whether the complainant:
    - (A) Appeared to possess, either on their person or in a location where it is readily available, a dangerous weapon; and
    - (B) Was afforded an opportunity to comply with an order to surrender any suspected dangerous weapons;
  - (3) Whether the law enforcement officer engaged in de-escalation measures, including taking cover, waiting for back-up, trying to calm the complainant, or using non-deadly force;
  - (4) Whether any conduct by the law enforcement officer increased the risk of a confrontation resulting in deadly force being used; and
  - (5) Whether the law enforcement officer made all reasonable efforts to prevent a loss of a life, including abandoning efforts to apprehend the complainant.
- (d) *Definitions.* The terms "purposely" 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," "complainant," "dangerous weapon," "deadly force," "law enforcement officer," "serious bodily injury," "sexual act," "sexual contact," and "speech" have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-404. Defense of Property.**

- (a) *Defense.* It is a defense that, in fact, the actor reasonably believes:
  - (1) Real or tangible personal property is in imminent danger of damage, taking, trespass, or misuse; and
  - (2) The conduct constituting the offense:
    - (A) Will protect against the harm; and
    - (B) Is necessary in degree.
- (b) *Exceptions.* This defense is not available when, in fact:
  - (1) The actor uses or attempts to use deadly force;
  - (2) The property is land that is property of another, unless the actor has or reasonably believes they have the effective consent of a property owner to protect the land; or
  - (3) The actor is reckless as to the fact that they are protecting themselves or another from lawful conduct.
- (c) *Definitions.* The term “reckless” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “deadly force,” “effective consent,” “property,” and “property of another” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-408. Special Responsibility for Care, Discipline, or Safety Defense.**

- (a) *Parental defense.* It is a defense to offenses under Subtitle II and Subtitle III that:
  - (1) In fact, the actor reasonably believes that:
    - (A) The complainant is under 18 years of age; and
    - (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) Acting with the effective consent of such a parent or such a person;
  - (2) The actor engages in the conduct constituting the offense with intent to safeguard or promote the welfare of the complainant, including the prevention or punishment of the complainant’s misconduct; and
  - (3) In fact, such conduct:
    - (A) Is reasonable, under all the circumstances; and
    - (B) 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 lawful cosmetic or medical procedure.
- (b) *Guardian defense.* It is a defense to offenses under Subtitle II and Subtitle III that:
  - (1) In fact, the actor reasonably believes that:
    - (A) The complainant is an incapacitated individual; and
    - (B) The actor is either:

- (i) A court-appointed guardian to the complainant; or
    - (ii) Acting with the effective consent of such a guardian;
  - (2) The actor engages in the conduct constituting the offense with intent to safeguard or promote the welfare of the complainant, including the prevention of the complainant's misconduct; and
  - (3) In fact, such conduct:
    - (A) Is reasonable under all the circumstances;
    - (B) Is permitted under civil law controlling the actor's guardianship; and
    - (C) 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 lawful cosmetic or medical procedure.
- (c) *Emergency health professional defense.* It is a defense to offenses under Subtitle II and Subtitle III that:
  - (1) In fact, the actor reasonably believes that:
    - (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 lawful medical procedure;
    - (D) The medical procedure is administered or authorized in an emergency;
    - (E) No person that is legally permitted to consent to the medical procedure on behalf of the complainant can be timely consulted;
    - (F) There is no legally valid standing instruction by the complainant declining the medical procedure;
  - (2) The actor engages in or authorizes the medical procedure with intent to safeguard or promote the physical or mental health of the complainant; and
  - (3) In fact, a reasonable person wishing to safeguard the welfare of the complainant would consent to the medical procedure.
- (d) *Limited duty of care defense.* It is a defense to offenses under Subtitle II and Subtitle III that:
  - (1) In fact, the actor reasonably believes that the actor has a responsibility, under civil law, for the health, welfare, or supervision of the complainant;
  - (2) The actor engages in the conduct constituting the offense with intent that the conduct:
    - (A) Is necessary to fulfill the actor's responsibility to the complainant; and
    - (B) Is consistent with the welfare of the complainant; and
  - (3) In fact, such conduct:
    - (A) Is reasonable, under all the circumstances;
    - (B) Does not create a substantial risk of, or cause, death or serious bodily injury; and



- (4) The defenses in subsections (a) - (c) of this section do not apply to the actor's conduct.
- (e) *Exceptions.* The defenses in this section do not apply to:
  - (1) Offenses in Chapter 13 of this title (Sexual Assault and Related Provisions); and
  - (2) Offenses in Chapter 16 of this title (Human Trafficking).
- (f) *Definitions.* The term "intent," 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," "consent," "effective consent," "health professional," "incapacitated individual," "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.

## **Chapter 5. Excuse Defenses.**

### **RCC § 22E-501. Duress.**

- (a) *Affirmative defense.* It is an affirmative defense that, in fact:
  - (1) The actor reasonably believes:
    - (A) A person communicated to the actor that the person will cause the actor or a third person a criminal bodily injury, sexual act, sexual contact, confinement, or death;
    - (B) The actor or third person is in imminent danger of the communicated harm; and
    - (C) The communication would cause a reasonable person of the same background and in the same circumstances as the actor to engage in the conduct constituting the offense.
- (b) *Exceptions.* This defense is not available when, in fact:
  - (1) The person recklessly brings about the situation requiring a choice of harms;
  - (2) Negligence is the culpable mental state for an objective element of the offense and the person is negligent in bringing about the situation requiring a choice of harms; or
  - (3) The conduct constituting the offense is an escape from a correctional facility or officer under RCC § 22E-3401 and the person does not make reasonable efforts to safely return to custody.
- (c) *Definitions.* The term "objective element" has the meaning specified in RCC § 22E-201; the terms "recklessly" 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 "bodily injury," "sexual act," and "sexual contact" have the meanings specified in RCC § 22E-701.

### **RCC § 22E-502. Temporary Possession.**

- (a) *Affirmative defense.* An actor does not commit an offense when:
  - (1) In fact, the offense is a predicate possessory or distribution offense;

- (2) The actor possesses or distributes the item with intent, exclusively and in good faith, to do one or more of the following:
  - (A) Permanently relinquish control over the item to a law enforcement officer or prosecutor for appropriate and lawful action;
  - (B) Permanently relinquish control over the item to the actor's supervisor or a person in charge of the location where the item was found, for appropriate and lawful action;
  - (C) Seek legal services from an attorney or provide legal services as an attorney;
  - (D) Seek medical services from a licensed health professional or provide medical services as a licensed health professional;
  - (E) Investigate the circumstances surrounding the item's possession, acquisition, or use by a specific person when the actor has a responsibility, under District civil law, for the health, welfare, or supervision of that person or
  - (F) Permanently dispose of the item; and
- (3) In fact, the actor does not possess the item longer than is reasonably necessary to engage in the conduct in paragraph (a)(2) of this section.

(b) *Definitions.*

- (1) The term "intent" has the meaning specified in RCC § 22E-206; the term "in fact" has the meaning specified in RCC § 22E-207; and the terms "actor," "health professional," "incapacitated individual," "law enforcement officer," and "possession" have the meanings specified in RCC § 22E-701.
- (2) In this section, the term "predicate possessory or distribution offense" means:
  - (A) Possession of a Prohibited Weapon or Accessory under RCC § 22E-4101;
  - (B) Carrying a Dangerous Weapon under RCC § 22E-4102;
  - (C) Possession of a Firearm by an Unauthorized Person under RCC § 22E-4105;
  - (D) Possession of an Unregistered Firearm, Destructive Device, or Ammunition under D.C. Code § 7-2502.01;
  - (E) Possession of a Stun Gun under D.C. Code § 7-2502.15;
  - (F) Carrying an Air or Spring Gun under D.C. Code § 7-2502.17;
  - (G) Carrying a Pistol in an Unlawful Manner under D.C. Code § 7-2509.06.
  - (H) Possession of a Controlled Substance under D.C. Code § 48-904.01a;
  - (I) Trafficking of a Controlled Substance under D.C. Code § 48-904.01b; and
  - (J) Trafficking of a Counterfeit Substance under D.C. Code § 48-904.01c.

**RCC § 22E-503. Entrapment.**

- (a) *Affirmative defense.* It is an affirmative defense that, in fact, a law enforcement officer acting under color or pretense of official right, or a person or a person cooperating with the law enforcement officer:
  - (1) Purposely commanded, requested, tried to persuade, or otherwise induced the actor to engage in the conduct constituting the offense; or
  - (2) Purposely commanded, requested, tried to persuade, or otherwise induced a person to engage in conduct constituting a criminal offense:
    - (A) Reckless as to the fact that that person would command, request, try to persuade, or otherwise induce one or more additional persons to engage in or assist the conduct; and
    - (B) In fact, the command, request, effort to persuade or otherwise induce an additional person in paragraph (a)(2)(A) induces the actor to engage in the conduct constituting the offense.
- (b) *Exception.* This defense is not available when, in fact, the actor was predisposed to engage in the specific conduct constituting the offense and the actor is merely afforded the opportunity or means to engage in such conduct.
- (c) *Definitions.* The terms “purposely” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the term “law enforcement officer” has the meaning specified in RCC § 22E-701.

#### **RCC § 22E-504. Mental Disability Defense.**

- (a) *Affirmative defense.* It is an affirmative defense in a criminal proceeding that, in fact, as a result of a mental disability, the actor:
  - (1) Lacked substantial capacity to conform the actor’s conduct to the requirements of the law; or
  - (2) Lacked substantial capacity to recognize the wrongfulness of the actor’s conduct.
- (b) *Effect of defense.* An actor who is acquitted solely on the ground of mental disability shall be committed under D.C. Code § 24-501.
- (c) *Definitions.*
  - (1) The term “actor” has the meaning specified in RCC § 22E-701.
  - (2) In this section, the term “mental disability” means an abnormal condition of the mind, regardless of its medical label, that affects mental or emotional processes and either substantially impairs a person’s ability to regulate and control their conduct or substantially impairs a person’s ability to recognize the wrongfulness of their conduct.
- (d) *Interpretation of statute.* This section shall not be construed to create or limit a court’s authority, on its own initiative, to order a psychiatric examination or to raise a mental disability defense.

### **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.* The terms “felony” and “misdemeanor” have the meanings specified in RCC § 22E-701.

**RCC § 22E-602. Authorized Dispositions.**

- (a) Unless otherwise expressly specified by statute, a court may sentence a person upon conviction to sanctions that include:
- (1) A term of imprisonment under RCC § 22E-603;
  - (2) A fine under RCC § 22E-604;
  - (3) Probation under D.C. Code § 16-710;
  - (4) Restitution or reparation under D.C. Code § 16-711;
  - (5) Community service under D.C. Code § 16-712;
  - (6) Post-release supervision under D.C. Code § 24-903; and
  - (7) Work release under D.C. Code § 24-241.01.
- (b) A court may sentence a person upon conviction to either imprisonment under RCC § 22E-603 or a fine under RCC § 22E-604, but not both, for the following statutes prosecuted by the Attorney General for the District of Columbia:
- (1) [RESERVED.]

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

- (a) *Authorized terms of imprisonment.* Unless otherwise expressly specified by statute, the maximum term of imprisonment authorized for an offense is:
- (1) [For a Class 1 felony, 60 years;
  - (2) For a Class 2 felony, 48 years;
  - (3) For a Class 3 felony, 36 years;
  - (4) For a Class 4 felony, 24 years;
  - (5) For a Class 5 felony, 18 years;
  - (6) For a Class 6 felony, 12 years;
  - (7) For a Class 7 felony, 8 years;
  - (8) For a Class 8 felony, 5 years;

- (9) For a Class 9 felony, 3 years;
- (10) For a Class A misdemeanor, 1 year;
- (11) For a Class B misdemeanor, 180 days;
- (12) For a Class C misdemeanor, 90 days;
- (13) For a Class D misdemeanor, 30 days; and
- (14) For a Class E misdemeanor, no imprisonment.]<sup>1</sup>

(b) *Definitions.* The terms “felony” and “misdemeanor” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-604. Authorized Fines.**

(a) *Authorized fines.* Unless otherwise expressly specified by statute, the maximum fine for an offense is:

- (1) For a Class 1 felony, \$1,000,000;
- (2) For a Class 2 felony, \$750,000;
- (3) For a Class 3 felony, \$500,000;
- (4) For a Class 4 felony, \$250,000;
- (5) For a Class 5 felony, \$100,000;
- (6) For a Class 6 felony, \$75,000;
- (7) For a Class 7 felony, \$50,000;
- (8) For a Class 8 felony, \$25,000;
- (9) For a Class 9 felony, \$10,000;
- (10) For a Class A misdemeanor, \$5,000;
- (11) For a Class B misdemeanor, \$2,500;
- (12) For a Class C misdemeanor, \$1,000;
- (13) For a Class D misdemeanor, \$500; and
- (14) For a Class E misdemeanor, \$250.

(b) *Alternative fines for pecuniary loss or gain, or organizational defendants.* A court may fine an actor:

- (1) Up to twice the pecuniary loss or pecuniary gain when:
  - (A) The offense, in fact, results in either pecuniary loss to a person other than the actor, or pecuniary gain to any person; and
  - (B) The information or indictment alleges the amount of the pecuniary loss or pecuniary gain and that the actor is subject to a fine double the amount of the pecuniary loss or pecuniary gain; or
- (2) Up to three times the amount otherwise provided by statute for the offense when the actor, in fact, is an organizational defendant and the information or indictment alleges the actor is an organizational defendant and is subject to a fine treble the maximum amount otherwise authorized.

(c) *Limits on fines.* Notwithstanding any other provision of law, a court may not impose a fine that would impair the ability of the person to make restitution or deprive the person of sufficient means for reasonable living expenses and family obligations.

---

<sup>1</sup> [An update to RCC § 22E-603, Authorized Terms of Imprisonment, will be released for Advisory Group review in January 2021 along with a Fourth Draft of Report #41, Ordinal Ranking of Maximum Imprisonment Penalties, and an updated memorandum with relevant court statistics.]

(d) *Definitions.*

- (1) The term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “felony,” “misdemeanor,” “pecuniary gain,” and “pecuniary loss” have the meanings specified in RCC § 22E-701.
- (2) In this section, “organizational defendant” means any actor other than a natural person, including a trust, estate, fiduciary, partnership, company, corporation, association, organization, union, government, government agency, or government-owned corporation, or any other legal entity.

**RCC § 22E-605. Charging and Proof of Penalty Enhancements.**

- (a) *Charging of penalty enhancements.* An offense is not subject to a general penalty enhancement under this chapter or any other penalty enhancement expressly specified by statute unless notice of the penalty enhancement is specified in the information or indictment for the offense.
- (b) *Standard of proof for penalty enhancements.* Except for the establishment of prior convictions under D.C. Code § 23-111, an offense is not subject to a general penalty enhancement under this chapter or any other penalty enhancement expressly specified by statute unless each objective element and culpable mental state of the penalty enhancement is proven beyond a reasonable doubt.

**RCC § 22E-606. Repeat Offender Penalty Enhancement.**

- (a) *Felony repeat offender penalty enhancement.* A felony repeat offender penalty enhancement applies to an offense when, in fact, the actor commits a felony offense under Subtitle II and at the time has:
  - (1) One or more prior convictions for a felony offense under Subtitle II of this title, or a comparable offense, not committed on the same occasion as the offense being enhanced; or
  - (2) Two or more prior convictions for District of Columbia felony offenses, or comparable offenses that were:
    - (A) Committed within 10 years; and
    - (B) Not committed on the same occasion as one another.
- (b) *Misdemeanor repeat offender penalty enhancement.* A misdemeanor repeat offender penalty enhancement applies to an offense when, in fact, the actor commits a misdemeanor offense under Subtitle II of this title and at the time has:
  - (1) Two or more prior convictions for a misdemeanor offense under Subtitle II of this title, or a comparable offense, not committed on the same occasion as the offense being enhanced;
  - (2) One or more prior convictions for a felony offense under Subtitle II of this title, or a comparable offense, not committed on the same occasion as the offense being enhanced; or
  - (3) Two or more prior convictions for District of Columbia felony offenses, or comparable offenses that were:
    - (A) Committed within the prior ten years; and
    - (B) Not committed on the same occasion as one another.

- (c) *Proceedings to establish previous convictions.* No person shall be subject to additional punishment for a felony or misdemeanor repeat offender penalty enhancement in this section unless the requirements of D.C. Code § 23-111 are satisfied.
- (d) *Penalties.* Subject to the limitation in RCC § 22E-602(b) regarding imposition of both a term of imprisonment and a fine:
  - (1) A felony repeat offender penalty enhancement under subsection (a) of this section increases the authorized term of imprisonment and fine for the offense above the otherwise authorized penalty classification:
    - (A) For a Class 1 or Class 2 felony, 6 years and \$50,000;
    - (B) For a Class 3 or Class 4 felony, 4 years and \$40,000;
    - (C) For a Class 5 or Class 6 felony, 2 years and \$30,000;
    - (D) For a Class 7 or Class 8 felony, 1 years and \$20,000; and
    - (E) For a Class 9 felony, 180 days and \$10,000; and
  - (2) A misdemeanor repeat offender penalty enhancement under subsection (b) of this section increases the authorized term of imprisonment and fine for the offense above the otherwise authorized penalty classification:
    - (A) For a Class A or Class B misdemeanor, 60 days and \$500; and
    - (B) For a Class C, Class D, or Class E misdemeanor, 10 days and \$50.
- (e) *Multiple penalty enhancements.* More than one penalty enhancement under this chapter may apply to any offense. A penalty enhancement under this section is in addition to, and does not limit application of, additional penalty enhancements specified elsewhere in Title 22E.
- (f) *Definitions.* The term “in fact” has the meaning specified in RCC § 22E-207; and the terms “comparable offense,” “felony,” “misdemeanor,” and “prior conviction” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-607. Pretrial Release Penalty Enhancement.**

- (a) *Pretrial release penalty enhancement.* A pretrial release penalty enhancement applies to an offense when, in fact, at the time the actor commits the offense the actor is on pretrial release under D.C. Code § 23-1321.
- (b) *Exceptions.* Notwithstanding any other provision of law, a penalty enhancement in this section does not apply to an offense of Contempt under D.C. Code § 11-741, Third Degree Escape from a Correctional Facility or Officer under RCC § 22E-3401(c), Tampering With a Detection Device under RCC § 22E-3402(a)(1)(B), or violation of a condition of release under D.C. Code § 23-1329 for the same conduct.
- (c) *Penalties.* Subject to the limitation in RCC § 22E-602(b) regarding imposition of both a term of imprisonment and a fine, a pretrial release penalty enhancement increases the authorized term of imprisonment and fine for an offense above the otherwise authorized penalty classification:
  - (1) For a Class 1 or Class 2 offense, 6 years and \$50,000
  - (2) For a Class 3 or Class 4 felony, 4 years and \$40,000;
  - (3) For a Class 5 or Class 6 felony, 2 years and \$30,000;
  - (4) For a Class 7 or Class 8 felony, 1 years and \$20,000;
  - (5) For a Class 9 felony, 180 days and \$10,000;

- (6) For a Class A or B misdemeanor, 60 days and \$500; and
- (7) For a Class C, Class D, or Class E misdemeanor, 10 days and \$50.
- (d) *Multiple penalty enhancements.* More than one penalty enhancement under this chapter may apply to any offense. A penalty enhancement under this section is in addition to, and does not limit application of, additional penalty enhancements specified elsewhere in Title 22E.
- (e) *Definitions.* The term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “felony,” and “misdemeanor” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-608. Hate Crime Penalty Enhancement.**

- (a) *Hate crime penalty enhancement.* A hate crime penalty enhancement applies to an offense when the actor commits the offense with the purpose, in whole or part, of threatening, physically harming, damaging the property of, or causing a pecuniary loss to any person or group because of prejudice against the person’s or group’s perceived race, color, religion, national origin, sex, age, sexual orientation, homelessness, physical disability, political affiliation, or gender identity or expression as, in fact, defined in D.C. Code § 2-1401.02(12A).
- (b) *Penalties.* A hate crime penalty enhancement increases the otherwise applicable penalty classification for any offense or gradation of an offense by one class.
- (c) *Multiple penalty enhancements.* More than one penalty enhancement under this chapter may apply to any offense. A penalty enhancement under this section is in addition to, and does not limit application of, additional penalty enhancements specified elsewhere in Title 22E.
- (d) *Definitions.* The term “purpose” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “homelessness,” “property,” and “pecuniary loss” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-609. Hate Crime Penalty Enhancement Civil Provisions.**

- (a) *Civil Provisions on Data Collection and Publication.*
  - (1) The Metropolitan Police Department shall afford each crime victim the opportunity to submit with their complaint a written statement that contains information to support a claim that the conduct that occurred is a crime subject to a hate crime penalty enhancement under RCC § 22E-608.
  - (2) The Mayor shall collect and compile data on the incidence of crime subject to a hate crime penalty enhancement under this section, provided that such data shall be used for research or statistical purposes and shall not contain information that may reveal the identity of an individual crime victim.
  - (3) The Mayor shall publish an annual summary of the data collected under paragraph (b)(2) of this section and transmit the summary and recommendations based on the summary to the Council.
- (b) *Civil Action.*



- (1) Irrespective of any criminal prosecution or the result of a criminal prosecution, a civil cause of action in a court of competent jurisdiction for appropriate relief shall be available for any person who alleges that they have been subjected to conduct that constitutes a criminal offense committed with the purpose, in whole or part, of threatening, physically harming, damaging the property of, or causing a pecuniary loss to any person or group because of prejudice against the person's or group's perceived race, color, religion, national origin, sex, age, sexual orientation, homelessness, physical disability, political affiliation, or gender identity or expression as, in fact, defined in D.C. Code § 2-1401.02(12A).
- (2) In a civil action under paragraph (b)(1) of this section, the relief available shall include:
  - (A) An injunction;
  - (B) Actual or nominal damages for economic or non-economic loss, including damages for emotional distress;
  - (C) Punitive damages in an amount to be determined by a jury or a court sitting without a jury; or
  - (D) Reasonable attorneys' fees and costs.
- (3) An actor's 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 actor shall be liable for any damages that an actor under 18 years of age is required to pay in a civil action brought under paragraph (b)(1) of this section, if any action or omission of the parent or person acting in the place of a parent per civil law contributed to the conduct of the actor.
- (c) *Definitions.* The term "purpose" has the meaning specified in RCC § 22E-206; the term "in fact" has the meaning specified in RCC § 22E-207; and the terms "actor," "homelessness," "property," "pecuniary loss" and "person acting in the place of a parent per civil law" have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-610. Abuse of Government Power Penalty Enhancement.**

- (a) *Penalty enhancement.* An abuse of government power penalty enhancement applies to an offense when the actor:
  - (1) In fact, commits an offense under Subtitle II or Subtitle III of this title;
  - (2) Knowing that they are a public official; and
  - (3) Recklessly engages in the conduct under color or pretense of official right.
- (b) *Penalties.* A hate crime penalty enhancement increases the otherwise applicable penalty classification for any offense or gradation of an offense by one class.
- (c) *Multiple penalty enhancements.* More than one penalty enhancement under this chapter may apply to any offense. A penalty enhancement under this section is in addition to, and does not limit application of, additional penalty enhancements specified elsewhere in Title 22E.
- (d) *Definitions.* The terms "knowing" and "recklessly" have the meanings specified in RCC § 22E-206; the term "in fact" has the meaning specified in RCC § 22E-207; and the term "public official" has the meaning specified in RCC § 22E-701.

## **Chapter 7. Definitions.**

### **RCC § 22E-701. Generally Applicable Definitions.**

Unless otherwise defined in a particular section, for purposes of this title, the term:

“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.

“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.

“Bodily injury” means physical pain, physical injury, illness, or 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 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 causing temporary blindness or incapacitation;
- (G) A tool designed 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 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 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 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 communication 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 this title; or
  - (2) A property offense as defined in subtitle III of this title;
- (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 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.

“Comparable offense” means an offense 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 current District offense.

“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 word or act that:

- (A) Indicates, explicitly or implicitly, agreement to particular conduct or a particular result; and
- (B) Is not given by a person who:
  - (i) Is legally incompetent to authorize the conduct charged to constitute the offense or to the result thereof; or
  - (ii) Because of youth, mental illness or disorder, or intoxication, is believed 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; and
- (C) Has not been withdrawn, explicitly or implicitly, by a subsequent word or act.

“Controlled substance” has the meaning specified in Title 48 of the D.C. Code.

“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.

[“Crime of violence” means [RESERVED]]

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

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

“Custody” means full submission after an arrest or substantial physical restraint after an arrest.

“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.

“Deadly force” means any physical force that is likely to cause serious bodily injury or death.

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

- (A) The value of the services or commercial sex acts, as reasonably assessed, is not applied toward the liquidation of the debt;
- (B) The length and nature of the 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”:

(A) Mean:

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

- (3) 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
- (4) 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; and
- (B) Do not mean puffing statements unlikely to deceive ordinary persons.
- (C) 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.

“Demonstrating,” and other parts of speech, including “demonstration” means marching, congregating, standing, sitting, lying down, parading, or patrolling by one or more persons, with or without signs, with the desired to persuade 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 capability, including global positioning system, and radio frequency identification technology.

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

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

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

“Dwelling” means a structure that is either designed or actually used for lodging or residing overnight, including, in multi-unit buildings, communal areas secured from the general public.

“Effective consent” means consent other than consent induced by physical force, an explicit or implicit 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.

“Felony” means:

- (A) An offense punishable by a term of imprisonment that is more than one year;
- (B) In other jurisdictions, an offense punishable by death; or
- (C) First or Second Degree Parental Kidnapping pursuant to RCC § 16-1022 (h)(6).

“Financial injury” means the reasonable monetary costs, debts, or obligations incurred by a natural person as a result of a criminal act, including:

- (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.

“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.

“Homelessness” means the status or circumstance of an individual who:

- (A) Lacks a fixed, regular, and adequate nighttime residence; or
- (B) Has a primary nighttime residence that is:

- (1) A supervised, publicly- or privately-operated shelter designed to provide temporary living accommodations, including motels, hotels, congregate shelters, and transitional housing for the mentally ill;
- (2) An institution that provides a temporary residence for individuals intended to be institutionalized; or
- (3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

“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, 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.

“Incapacitated individual” has the meaning specified in D.C. Code § 21-2011.

“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.

“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) An officer or member of the Metropolitan Police Department of the District of Columbia, or of any other police force operating in the District of Columbia;



- (B) An investigative officer or agent of the United States;
- (C) An on-duty, civilian employee of the Metropolitan Police Department;
- (D) An on-duty, licensed special police officer;
- (E) An on-duty, licensed campus police officer;
- (F) An on-duty employee of the Department of Corrections or Department of Youth Rehabilitation Services; or
- (G) An on-duty employee of the Court Services and Offender Supervision Agency, Pretrial Services Agency, or Family Court Social Services Division.

“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 an audience, including an audience of one person.

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

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

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

“Misdemeanor” means an offense punishable by a term of imprisonment that is one year or less.

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

“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.

“Official custody” means:

- (A) Detention for a legitimate police purpose, or detention following or pending:
  - (i) Arrest or surrender in lieu of arrest for an offense;
  - (ii) A charge or conviction of an offense, or an allegation or finding of juvenile delinquency;
  - (iii) Commitment as a material witness; or
  - (iv) Civil commitment proceedings, extradition, deportation, or exclusion;
- (B) Custody for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation.

“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.

“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.

“Pecuniary gain” means before-tax profit that is monetary or readily measured in money, including additional revenue or cost savings.

“Pecuniary loss” means actual harm that is monetary or readily measurable in money.

“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, notwithstanding the definition in D.C. Code § 45-604.

“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.

“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 health, welfare,

or supervision of the complainant, or someone acting with the effective consent of such a parent or such a person; or

- (B) When the complainant is an incapacitated individual, the court-appointed guardian to the complainant, or someone acting with the effective consent of such a guardian.

“Personal identifying information” shall include 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 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.

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

- (A) A parent, grandparent, great-grandparent, sibling, parent’s sibling, or a child of a parent’s sibling, or an individual with whom such a person is in a romantic, dating, or sexual relationship, whether related by:
  - (i) Blood or adoption; or

- (ii) Marriage, domestic partnership, either while the marriage or domestic partnership creating the relationship exists, or after such marriage or domestic partnership ends;
- (B) A half-sibling related by blood, or an individual with whom such a person is in a romantic, dating, or sexual relationship;
- (C) A person acting in the place of a parent per civil law, the current spouse or domestic partner of such a person, or an individual with whom such a person is in a romantic, dating, or sexual relationship;
- (D) Any person, at least 4 years older than the complainant, who resides intermittently or permanently in the same dwelling as the complainant;
- (E) A religious leader described in D.C. Code § 14-309;
- (F) A coach who is not a secondary school student, a teacher, counselor, principal, administrator, nurse, or security officer, provided that such an actor is an employee, contract employee, or volunteer at the school at which the complainant is enrolled or at a school where the complainant receives services or attends programming;
- (G) Any employee, contract employee, or volunteer of a school, religious institution, or an educational, social, recreational, athletic, musical, charitable, or youth facility, organization, or program, that exercises supervisory or disciplinary authority over the complainant; or
- (H) 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.

“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 has been reversed, vacated, sealed, or expunged; or
- (D) A conviction for which a person has been granted clemency or a pardon.

“Property” means anything of value. The term “property” includes:

- (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) 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 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 65 years of age and at least 10 years younger than the complainant;
- (C) A vulnerable adult;
- (D) A law enforcement officer, while in the course of their official duties;
- (E) A public safety employee, while in the course of their official duties;
- (F) A transportation worker, while in the course of their official duties; or
- (G) A District official, while in the course of their official duties.

“Public conveyance” means any government-operated air, land, or water vehicle used for the transportation of persons, including any airplane, train, bus, or boat.

“Public official” means a government employee, government contractor, law enforcement officer, or public official as defined in D.C. Code § 1-1161.01(47).

“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.

“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.

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

“Sawed-off shotgun” has the meaning specified 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;
- (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:

- (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 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, 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 brief loss of consciousness; a traumatic brain injury; and a contusion, petechia, or other bodily injury to the neck or head 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 must rise significantly above the level of uneasiness, nervousness, unhappiness, or similar feeling, that 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; and
- (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 person and causes the 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 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.* An actor commits first degree murder when the actor purposely, with premeditation and deliberation, causes the death of another person.
- (b) *Second degree.* An actor commits second degree murder when the actor:
  - (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, in the course of and in furtherance of committing or attempting to commit any of the following offenses:
    - (A) First or second degree arson as defined in RCC § 22E-2501;
    - (B) First degree sexual assault as defined in RCC § 22E-1301;
    - (C) First degree sexual abuse of a minor as defined in RCC § 22E-1302;
    - (D) First degree burglary as defined in RCC § 22E-2701 when committed while possessing a dangerous weapon on his or her person;
    - (E) First or second degree robbery as defined in RCC § 22E-1201; or
    - (F) First or second degree kidnapping as defined in RCC § 22E-1401.
- (c) *Voluntary intoxication.* An actor shall be deemed to have consciously disregarded the risk required to prove that the actor acted with extreme indifference to human life in paragraph (b)(1) if the actor was unaware of the risk due to self-induced intoxication, but would have been aware had the person been sober.
- (d) *Penalties.*
  - (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) *Penalty enhancements.* The penalty classification for first degree murder and second degree murder increases in severity by one penalty class when a person commits the offense and the person:
- (A) Is reckless as to the fact 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;
  - (G) In fact, commits the murder after substantial planning;
  - (H) By knowingly shooting from a vehicle that is being driven at the time of the 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, an actor 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) In addition to any defenses otherwise applicable to the actor'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) *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.
- (3) *Defense to felony murder.* It is a defense to prosecution under paragraph (b)(2) of this section that the actor, in fact, does not commit the lethal act and either:
- (A) Believes that no participant in the predicate felony offense intends to cause death or serious bodily injury; or
  - (B) Makes reasonable efforts to prevent another participant from causing the death or serious bodily injury of another.
- (g) *Sentencing.* [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.]
- (h) *Definitions.* The terms "knowingly," "negligently," "purposely," "recklessly," and have the meanings specified in RCC § 22E-206; the terms "actor," "dangerous weapon," "felony," "imitation dangerous weapon," "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.* An actor commits voluntary manslaughter when the actor:
- (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, in the course of and in furtherance of committing or attempting to commit one of the following offenses:
    - (A) First or second degree arson as defined in RCC § 22E-2501;
    - (B) First degree sexual assault as defined in RCC § 22E-1301;
    - (C) First degree sexual abuse of a minor as defined in RCC § 22E-1302;
    - (D) First degree burglary as defined in RCC § 22E-2701, when committed while possessing a dangerous weapon on his or her person;

- (E) First, second or second degree robbery as defined in RCC § 22E-1201; or
- (F) First or second degree kidnapping as defined in RCC § 22E-1401.
- (b) *Involuntary manslaughter*. An actor commits involuntary manslaughter when the actor recklessly causes the death of another person.
- (c) *Voluntary intoxication*. An actor 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) *Penalty enhancements for voluntary and involuntary manslaughter*. The penalty classification for voluntary manslaughter and involuntary manslaughter increases in severity by one penalty class when a person commits the offense:
    - (A) Reckless as to the fact that the decedent is a protected person; or
    - (B) 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) *Defense*. It is a defense to prosecution under paragraph (a)(2) of this section that the actor, in fact, does not commit the lethal act and either:
  - (1) Believes that no participant in the predicate felony offense intends to cause death or serious bodily injury; or
  - (2) Makes reasonable efforts to prevent another participant from causing the death or serious bodily injury of another.
- (f) *Definitions*. The terms “negligently,” “purposely,” and “recklessly” have the meanings specified in RCC § 22E-206; the terms “actor,” “dangerous weapon,” “District official,” “felony,” “imitation dangerous weapon,” “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*. An actor commits negligent homicide when the actor 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; and the term “actor” has the meaning specified in RCC § 22E-701.

## **Chapter 12. Robbery, Assault, and Threats.**

**RCC § 22E-1201. Robbery.**

- (a) *First degree.* An actor commits first degree robbery when that actor:
- (1) Knowingly takes or exercises control over the property of another that the complainant possesses within the complainant's immediate physical control by:
    - (A) Causing bodily injury to the complainant or another person physically present;
    - (B) Communicating, explicitly or implicitly, that the actor immediately will cause the complainant or another person physically present to suffer bodily injury, a sexual act, a sexual contact, confinement, or death;
    - (C) Applying physical force that moves or immobilizes another person present; or
    - (D) Removing property from the hand or arms of the complainant;
  - (2) With intent to deprive the complainant of the property; and
  - (3) In the course of the robbery, recklessly causes serious bodily injury another person, other than an accomplice.
- (b) *Second degree.* An actor commits second degree robbery when that actor:
- (1) Knowingly takes or exercises control over the property of another that the complainant possesses within the complainant's immediate physical control by:
    - (A) Causing bodily injury to another person physically present;
    - (B) Communicating, explicitly or implicitly, that the actor immediately will cause the complainant or another person present to suffer bodily injury, a sexual act, a sexual contact, confinement, or death;
    - (C) Applying physical force that moves or immobilizes another person present; or
    - (D) Removing property from the hand or arms of the complainant
  - (2) With intent to deprive the complainant of the property; and
  - (3) Either:
    - (A) In the course of the robbery, recklessly causes significant bodily injury to another person, other than an accomplice; or
    - (B) In fact:
      - (I) The property is a motor vehicle; or
      - (II) The property has a value of \$5,000 or more.
- (c) *Third degree.* An actor commits third degree robbery when that actor:
- (1) Knowingly takes or exercises control over the property of another that the complainant possesses within the complainant's immediate physical control by:
    - (A) Causing bodily injury to the complainant or another person present;
    - (B) Communicating to the complainant, explicitly or implicitly, that the actor immediately will cause the complainant or another

- person present to suffer bodily injury, a sexual act, a sexual contact, confinement, or death;
    - (C) Applying physical force that moves or immobilizes another person present; or
    - (D) Removing property from the hand or arms of the complainant;
  - (2) With intent to deprive the complainant of the property.
- (d) *Affirmative defense.* It is an affirmative defense to criminal liability under this section that, in fact, the actor reasonably believes that an owner of the property gives effective consent to the actor to take or exercise control over the property.
- (e) *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) *Penalty enhancements.* The penalty classification for first, second and third degree robbery is increased in severity by one penalty class when a person commits the offense:
    - (A) Reckless that the complainant is a protected person; or
    - (B) By using or displaying what is, in fact, a dangerous weapon or imitation dangerous weapon.
- (f) *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 “actor,” “bodily injury,” “dangerous weapon,” “motor vehicle,” “protected person,” “serious bodily injury,” and “significant bodily injury” have the meanings specified in RCC § 22E-701.

## **RCC § 22E-1202. Assault.**

- (a) *First degree.* An actor commits first degree assault when the actor purposely:
  - (1) Causes serious and permanent disfigurement to the complainant; or
  - (2) Destroys, amputates, or permanently disables a member or organ of the complainant’s body.
- (b) *Second degree.* An actor commits second degree assault when the actor recklessly, with extreme indifference to human life, causes serious bodily injury to the complainant.
- (c) *Third degree.* An actor commits third degree assault when the actor recklessly causes significant bodily injury to the complainant.
- (d) *Fourth degree.* An actor commits fourth degree assault when the actor recklessly causes bodily injury to the complainant.
- (e) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the actor’s conduct is specifically permitted by a District statute or regulation.
- (f) *Defenses.*

- (1) It is a defense to liability under subsections (a) and (b) of this section that, in fact:
- (A) The injury is caused by a lawful cosmetic or medical procedure;
  - (B) The actor is not a person with legal authority over the complainant; and
  - (C) The actor reasonably believes that:
    - (i) The complainant is 18 years of age or older, and the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to cause the injury;
    - (ii) The complainant is under 18 years of age and:
      - (I) The actor is 18 years of age or older; and
      - (II) A person with legal authority over the complainant acting consistent with that authority gives effective consent to the actor to cause the injury; or
    - (iii) The complainant is under 18 years of age and:
      - (I) The actor is under 18 years of age; and
      - (II) The complainant gives effective consent to the actor to cause the injury.
- (2) It is a defense to liability under subsections (c) and (d) of this section that, in fact:
- (A) The actor is not a person with legal authority over the complainant; and
  - (B) The actor reasonably believes that:
    - (i) The complainant is 18 years of age or older, and the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to:
      - (I) Cause the injury; or
      - (II) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the injury is a reasonably foreseeable hazard of that activity;
    - (ii) The complainant is under 18 years of age and:
      - (I) The actor is 18 years of age or older and is more than four years older than the complainant; and
      - (II) A person with legal authority over the complainant acting consistent with that authority gives effective consent to the actor to:
        - (a) Cause the injury; or
        - (b) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the injury is a reasonably foreseeable hazard of that activity; or
    - (iii) The complainant is under 18 years of age and:

- (I) The actor is either under 18 years of age or is 18 years of age or older and not more four years older than the complainant; and
  - (II) The complainant gives effective consent to the actor to:
    - (a) Cause the injury; or
    - (b) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the injury is a reasonably foreseeable hazard of that activity.
- (g) *Voluntary intoxication.* An actor shall be deemed to have consciously disregarded the risk required to prove the actor acted with extreme indifference to human life in subsection (b) of this section if the actor is unaware of the risk due to the actor's self-induced intoxication, but would have been aware had the actor been sober.
- (h) *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) *Penalty enhancements.* The penalty classification of second degree assault is increased by one class when the actor commits the offense:
    - (A) Reckless as to the fact that the complainant is a protected person;
    - (B) By displaying or using what, in fact, is a dangerous weapon or imitation dangerous weapon; or
    - (C) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official.
  - (6) *Penalty enhancements.* The penalty classification of third degree assault is increased by:
    - (A) One class when the actor commits the offense:
      - (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
    - (B) Two classes when the actor commits the offense by recklessly displaying or using what, in fact, is a dangerous weapon or imitation dangerous weapon.
  - (7) *Penalty enhancements.* The penalty classification of fourth degree assault is increased by:
    - (A) One class when the actor commits the offense:



- (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
- (B) Three classes when the actor commits the offense by recklessly displaying or using what, in fact, is a dangerous weapon or imitation dangerous weapon.
- (i) *Definitions.* The terms "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 "actor," "bodily injury," "complainant," "dangerous weapon," "District official," "effective consent," "imitation dangerous weapon," "law enforcement officer," "person with legal authority over the complainant," "protected person," "public safety employee," "serious bodily injury," and "significant bodily injury" have the meanings specified in RCC § 22E-701; and the term "self-induced intoxication" has the meaning specified in RCC § 22E-209.

#### **RCC § 22E-1204. Criminal Threats.**

- (a) *First degree.* An actor commits first degree criminal threats when that actor:
  - (1) Knowingly communicates to a person other than a co-conspirator or accomplice, explicitly or implicitly, that the actor immediately will cause the complainant or another person to suffer a criminal death, serious bodily injury, sexual act, 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.* An actor commits second degree criminal threats when that actor:
  - (1) Knowingly communicates to a person other than a co-conspirator or accomplice, explicitly or implicitly, that the actor will cause the complainant or another person to suffer a criminal bodily injury or sexual contact;
  - (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.
- (c) *Third degree.* An actor commits third degree criminal threats when that actor:
  - (1) Knowingly communicates to a person other than a co-conspirator or accomplice, explicitly or implicitly, that the actor will cause the complainant or another person to suffer a criminal 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.

(d) *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.
- (3) Third degree criminal threats is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (4) *Penalty Enhancements.* The penalty classification of this offense is increased by one class when the actor commits the offense:
  - (A) Reckless as to the fact that the complainant is a protected person;
  - (B) By displaying or using what, in fact, is a dangerous weapon or imitation dangerous weapon; or
  - (C) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official.
- (5) *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; and the terms "actor," "bodily injury," "complainant," "dangerous weapon," "District official," "imitation dangerous weapon," "law enforcement officer," "public safety employee," "property," "protected person," "sexual act," and "sexual contact" have the meanings specified in RCC § 22E-701.

**RCC § 22E-1205. Offensive Physical Contact.**

- (a) *First degree.* An actor commits first degree offensive physical contact when the actor:
  - (1) Knowingly causes the complainant to come into physical contact with bodily fluid or excrement;
  - (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.
- (b) *Second degree.* An actor commits second degree offensive physical contact when the actor:
  - (1) Knowingly causes the complainant to come into physical contact with any person or any object or substance;
  - (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) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the actor's conduct is specifically permitted by a District statute or regulation.
- (d) *Defense.* It is a defense to liability that, in fact, the actor reasonably believes that:
  - (1) The actor is not a person with legal authority over the complainant; and
  - (2) The actor reasonably believes that:

- (A) The complainant is 18 years of age or older, and the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to:
  - (i) Cause the physical contact; or
  - (ii) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the physical contact is a reasonably foreseeable hazard of that activity;
- (B) The complainant is under 18 years of age and:
  - (i) The actor is 18 years of age or older and is more than four years older than the complainant; and
  - (ii) A person with legal authority over the complainant acting consistent with that authority gives effective consent to the actor to:
    - (I) Cause the physical contact; or
    - (II) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the physical contact is a reasonably foreseeable hazard of that activity; or
- (C) The complainant is under 18 years of age and:
  - (i) The actor is either under 18 years of age or is 18 years of age or older and not more than four years older than the complainant; and
  - (ii) The complainant gives effective consent to the actor to:
    - (I) Cause the physical contact; or
    - (II) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the physical contact is a reasonably foreseeable hazard of that activity.

(e) *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) *Penalty enhancements.* The penalty classification of this offense is increased by one class when the actor commits the offense:
  - (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.

- (f) *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; and the terms "actor," "complainant," "District official," "effective consent," "law enforcement officer," "person with legal authority over the complainant," "protected person," and "public safety employee" 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 the 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 causing bodily injury to the complainant, or by using physical force that moves or immobilizes the complainant;
    - (B) By communicating to the complainant, explicitly or implicitly, that the actor will cause:
      - (i) The complainant to suffer a bodily injury, confinement or death; or
      - (ii) A third party to suffer a bodily injury, sexual act, sexual contact, confinement, or death; or
    - (C) 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 willingness or unwillingness to engage in the sexual act; and
      - (ii) In fact, the drug, intoxicant, or other substance renders the complainant:
        - (a) Asleep, unconscious, substantially paralyzed, or passing in and out of consciousness;
        - (b) Substantially incapable of appraising the nature of the sexual act; or
        - (c) Substantially incapable of communicating willingness or unwillingness to engage in the sexual act.
- (b) *Second degree.* An actor commits second degree sexual assault when the 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 making a coercive threat, explicit or implicit; or
    - (B) When the complainant is:
      - (i) Asleep, unconscious, or passing in and out of consciousness;
      - (ii) 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) Incapable of communicating willingness or unwillingness to engage in the sexual act.
- (c) *Third degree.* An actor commits third degree sexual assault when the actor:

- (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a sexual contact;
  - (2) In one or more of the following ways:
    - (A) By causing bodily injury to the complainant, or by using physical force that moves or immobilizes the complainant;
    - (B) By communicating to the complainant, explicitly or implicitly, that the actor will cause:
      - (i) The complainant to suffer a bodily injury, confinement or death; or
      - (ii) A third party to suffer a bodily injury, sexual act, sexual contact, confinement, or death; or
    - (C) 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:
        - (a) Asleep, unconscious, substantially paralyzed, or passing in and out of consciousness;
        - (b) Substantially incapable of appraising the nature of the sexual contact; or
        - (c) Substantially incapable of communicating willingness or unwillingness to engage in the sexual contact.
- (d) *Fourth degree.* An actor commits fourth degree sexual assault when the actor:
- (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a sexual contact;
  - (2) In one or more of the following ways:
    - (A) By making a coercive threat, explicit or implicit; or
    - (B) When the complainant is:
      - (i) Asleep, unconscious, or passing in and out of consciousness;
      - (ii) 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) Incapable of communicating willingness or unwillingness to engage in the sexual contact.
- (e) *Affirmative defense.* It is an affirmative defense to liability under subparagraphs (a)(2)(A), (a)(2)(B), (b)(2)(A), (b)(2)(B), (c)(2)(A), (c)(2)(B), (d)(2)(A), and (d)(2)(B) of this section that, in fact, the actor reasonably believes that the complainant gives effective consent to the actor to engage in the conduct constituting the offense.
- (f) *Penalties.*

- (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) *Penalty enhancements.* The penalty classification of this offense is increased by one class when:
  - (A) The actor recklessly causes the sexual act or sexual contact by displaying or using what is, in fact, a dangerous weapon or imitation dangerous weapon;
  - (B) The actor knowingly acts with one or more accomplices that are physically present at the time of the sexual act or sexual contact;
  - (C) The actor recklessly causes serious bodily injury to the complainant immediately before, during, or immediately after the sexual act or sexual contact; or
  - (D) At the time of the sexual act or sexual contact:
    - (i) The complainant is, in fact, under 12 years of age and the actor is at least 4 years older than the complainant;
    - (ii) The actor is reckless as to the fact that the complainant is under 16 years of age and the actor is, in fact, at least 4 years older than the complainant;
    - (iii) The actor is reckless as to the fact that the complainant is under 18 years of age, that the actor is in a position of trust with or authority over the complainant, and that the actor is, in fact, at least 4 years older than the complainant;
    - (iv) The actor is reckless as to the fact that the complainant is 65 years of age or older and the actor is, in fact, under 65 years of age and at least 10 years younger than the complainant; or
    - (v) The actor is reckless as to the fact that the complainant is a vulnerable adult.

(g) *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; and the terms “actor,” “bodily injury,” “complainant,” “consent,” “dangerous weapon,” “effective consent,” “coercive threat,” “imitation dangerous weapon,” “position of trust with or authority over,” “serious 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 the 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 the 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 the 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 18 years of age or older and at least 4 years older than the complainant.
- (d) *Fourth degree.* An actor commits fourth degree sexual abuse of a minor when the actor:
  - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a 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 the actor:
  - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a 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 the person:
  - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a 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, 18 years of age or older and at least 4 years older than the complainant.
- (g) *Affirmative defenses.*
  - (1) It is an affirmative defense to liability under this section for conduct involving only the actor and the complainant that, in fact, the actor and the complainant are in a marriage or domestic partnership at the time of the sexual act or sexual contact.

- (2) It is an affirmative defense to liability under subsection (b) and subsection (e) of this section that, in fact:
  - (A) The actor reasonably believes that the complainant is 16 years of age or older at the time of the sexual act or sexual contact;
  - (B) Such reasonable belief is based on an oral or written statement that the complainant made to the actor about the complainant's age; and
  - (C) The complainant is 14 years of age or older at the time of the sexual act or sexual contact.
- (3) It is an affirmative defense to liability under subsection (c) and subsection (f) of this section that, in fact:
  - (A) The actor reasonably believes that the complainant is 18 years of age or older at the time of the sexual act or sexual contact;
  - (B) Such reasonable belief is based on an oral or written statement that the complainant made to the actor about the complainant's age; and
  - (C) The complainant is 16 years of age or older at the time of the sexual act or sexual contact.

(h) *Penalties.*

- (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) *Penalty enhancements.* The penalty classification of first, second, fourth, and fifth degree sexual abuse of a minor is increased by one class when the actor:
  - (A) 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;
  - (B) Knowingly acts with one or more accomplices that are physically present at the time of the sexual act or sexual contact;
  - (C) Recklessly causes serious bodily injury to the complainant immediately before, during, or immediately after the sexual act or sexual contact; or
  - (D) 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.
- (8) *Penalty enhancements.* The penalty classification of third and sixth degree sexual abuse of a minor is increased by one class when the actor:



- (A) 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;
  - (B) Knowingly acts with one or more accomplices that are physically present at the time of the sexual act or sexual contact; or
  - (C) Recklessly causes serious bodily injury to the complainant immediately before, during, or immediately after the sexual act or sexual contact.
- (i) *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; 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 Abuse by Exploitation.**

- (a) *First degree.* An actor commits first degree sexual abuse by exploitation when the 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 situations:
    - (A) The actor is a coach, not including a coach who is a secondary school student, a teacher, counselor, principal, administrator, nurse, or security officer at a secondary school, working as an employee, contract employee, or volunteer, and is reckless as to the fact 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 20 years of age;
    - (B) The actor knowingly and falsely represents that the actor 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 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 is reckless as to the fact that the mental, emotional, or physical condition of the complainant is such

that the complainant is impaired from declining participation in the sexual act;

(D) The actor:

- (i) Knowingly works as an employee, contract employee, or volunteer at or for a hospital, treatment facility, detention or correctional facility, group home, or institution housing persons who are not free to leave at will; and
- (ii) Is reckless as to the fact that the complainant is:
  - (I) A ward, patient, client, or prisoner at that institution;
  - (II) Awaiting admission to that institution; or
  - (III) In transport to or from that institution; or
- (E) The actor knowingly works as a law enforcement officer, and is reckless as to the fact that the complainant is in official custody or on probation or parole.

(b) *Second degree.* An actor commits second degree sexual abuse by exploitation when the actor:

- (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a sexual contact;
- (2) In one or more of the following situations:

(A) The actor is a coach, not including a coach who is a secondary school student, a teacher, counselor, principal, administrator, nurse, or security officer at a secondary school, working as an employee, contract employee, or volunteer, and is reckless as to the fact 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 20 years of age;

(B) The actor knowingly and falsely represents that the actor 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 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 is reckless as to the fact that the mental, emotional, or physical condition of the complainant is such that the complainant is impaired from declining participation in the sexual contact;

(D) The actor:

- (i) Knowingly works as an employee, contract employee, or volunteer at or for a hospital, treatment facility, detention or correctional facility, group home, or institution housing persons who are not free to leave at will; and
  - (ii) Is reckless as to the fact that the complainant is:
    - (I) A ward, patient, client, or prisoner at that institution;
    - (II) Awaiting admission to that institution; or
    - (III) In transport to or from that institution; or
- (E) The actor knowingly works as a law enforcement officer, and is reckless as to the fact that the complainant is in official custody or on probation or parole.
- (c) *Affirmative defense.* It is an affirmative defense to liability under this section that, in fact, the actor and the complainant are in a marriage or domestic partnership at the time of the sexual act or sexual contact.
- (d) *Penalties.*
  - (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 “reckless” have the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “complainant,” “domestic partnership,” “health professional,” “healthcare provider,” “law enforcement officer,” “official custody,” “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 conduct with a minor when the actor:
  - (1) Is, in fact, 18 years of age or older 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.
- (b) *Affirmative defense.* It is an affirmative defense to liability under this section for conduct involving only the actor and the complainant that, in fact, the actor and the complainant are in a marriage or domestic partnership at the time of the prohibited conduct.
- (c) *Penalties.* 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,” “purposely,” 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.

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

- (a) *Offense.* An actor commits enticing a minor into sexual conduct when the actor:
- (1) Knowingly commands, requests, or tries to persuade the complainant to engage in or submit to a sexual act or sexual contact;
  - (2) The actor is, in fact, 18 years of age or older 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
    - (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; or
  - (3) The actor is, in fact, 18 years of age or older 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.
- (b) *Affirmative defense.* It is an affirmative defense to liability under this section for conduct involving only the actor and the complainant that, in fact, the actor and the

complainant are in a marriage or domestic partnership at the time of the prohibited conduct.

- (c) *Penalties.* 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 “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 or Person Incapable of Consenting.**

- (a) *Offense.* An actor commits arranging for sexual conduct with a minor or person incapable of consenting when the 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 to a third party to:
      - (i) Engage in or submit to a sexual act or sexual contact with or for the complainant; or
      - (ii) Cause the complainant to engage in or submit to a sexual act or sexual contact with or for the third party or any other person;
  - (2) In one of the following situations:
    - (A) The actor is reckless as to:
      - (i) The fact that the complainant is under 16 years of age; and
      - (ii) The fact that the third party or other person is at least 4 years older than the complainant;
    - (B) The actor:
      - (i) Is reckless as to:
        - a. The fact that the complainant is under 18 years of age; and
        - b. The fact that the third party or other person is 18 years of age or older and at least 4 years older than the complainant; and
      - (ii) Knows that the third party or other person is in a position of trust with or authority over the complainant; or
    - (C) The actor is reckless as to:
      - (i) The fact that the complainant is incapable of appraising the nature of the sexual act or sexual contact or of understanding the right to give or withhold consent to the sexual act or 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

- (ii) The fact that the complainant is incapable of communicating willingness or unwillingness to engage in the sexual act or sexual contact.
- (b) *Penalties.* Arranging for sexual conduct with a minor or person incapable of consenting 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,” “complainant,” “consent,” “effective consent,” “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 the 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) 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 the actor:
  - (1) Knowingly engages in a sexual contact with the complainant or causes the complainant to engage in or submit to a sexual contact;
  - (2) Reckless as to the fact that the actor lacks the complainant's effective consent.
- (c) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the actor uses deception, unless it is deception as to the nature of the sexual act or sexual contact.
- (d) *Penalties.*
  - (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 “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,” “deception,” “effective consent,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

### **RCC § 22E-1308. Incest.<sup>2</sup>**

- (a) *First degree.* An actor commits first degree incest when the actor:
  - (1) In fact, is 16 years of age or older;
  - (2) Knowingly engages in a sexual act with another person who is a:

---

<sup>2</sup> Incest was previously numbered as RCC § 22E-1312.

- (A) Parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, parent's sibling, a sibling's child, or a child of a parent's sibling, whether related by:
      - (i) Blood or adoption; or
      - (ii) Marriage or domestic partnership, either while the marriage or domestic partnership creating the relationship exists, or after such marriage or domestic partnership ends; or
    - (B) A half-sibling related by blood; and
  - (3) Obtains the consent of the other person by undue influence.
- (b) *Second degree.* An actor commits second degree incest when the actor:
  - (1) In fact, is 16 years of age or older;
  - (2) Knowingly engages in a sexual contact with another person who is a:
    - (C) Parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, parent's sibling, or a sibling's child, or a child of a parent's sibling, whether related by:
      - (i) Blood or adoption; or
      - (ii) Marriage or domestic partnership, either while the marriage or domestic partnership creating the relationship exists, or after such marriage or domestic partnership ends; or
    - (D) A half-sibling related by blood; and
  - (3) Obtains the consent of the other person by undue influence.
- (c) *Penalties.*
  - (1) First degree incest is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) Second degree incest 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," "consent," "domestic partnership," "sexual act," "sexual contact," and "undue influence" have the meanings specified in RCC § 22E-701.

**RCC § 22E-1309. Civil Provisions on the Duty to Report a Sex Crime.**

- (a) *Duty to report a sex crime.* A person who is, in fact, 18 years of age or older, and is aware of a substantial risk that a person under 16 years of age is being subjected to, 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 duty to report.*
  - (1) A person does not have a duty to report a predicate crime under subsection (a) of this section when that person is, in fact:
    - (A) 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, 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; or

(D) A sexual assault counselor, when the information or basis for the belief is disclosed in a confidential communication, unless the sexual assault counselor is aware of a substantial risk that:

- (i) A sexual assault victim is under 13 years of age;
- (ii) A perpetrator or alleged perpetrator of the predicate crime in subsection (a) is in a position of trust with or authority over the sexual assault victim; or
- (iii) A perpetrator or alleged perpetrator of the predicate crime in subsection (a) is more than 4 years older than the sexual assault victim.

(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) *Relationship to D.C. Code § 4-1321.02.* 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) *Civil violation.* A person commits failure to report a sex crime involving a person under 16 years of age when that person:

- (1) Is, in fact, 18 years of age or older;
- (2) Knows that he or she has a duty to report a predicate crime involving a person under 16 years of age under subsection (a) of this section; and
- (3) Fails to carry out this duty.

(e) *Defense.* It is a defense to liability under subsection (d) of this section that the person fails to report a predicate crime under subsection (a) of this section because the person, in fact, reasonably believes that they are 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).

(f) *Penalty.*

- (1) Failure to report a sex crime involving a person under 16 years of age is a civil violation subject to a civil fine of \$300.
- (2) A violation of subsection (d) of this section shall not constitute a criminal offense or a delinquent act as defined in D.C. Official Code § 16-2301(7).



(g) *Judicial venue.* Adjudication of a civil violation per this section shall occur in the Office of Administrative Hearings pursuant to D.C. Code § 2-1831.03(b-6).

(h) *Immunity for good faith report of a sex crime.*

(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 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 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 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.

(i) *Definitions.*

(1) The terms “knows” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the term “position of trust with or authority over” has the meaning specified in RCC § 22E-701.

(2) In this section, the term:

(A) “Confidential communication” has the meaning specified in D.C. Code § 14-312(a)(1), and is subject to the protections in D.C. Code § 14-312(b)(3);

(B) “Predicate crime” means any conduct that violates:

(i) Forced Commercial Sex under RCC § 22E-1602, Trafficking in Forced Commercial Sex under RCC § 22E-1604, Sex Trafficking of a Minor or Adult Incapable of Consenting under RCC § 22E-1605, or Commercial Sex with a Trafficked Person under RCC § 22E-1608;

(ii) Trafficking in Commercial Sex under RCC § 22E-4403;

(iii) Chapter 13 of this Subtitle; or

(iv) 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;

(C) Sexual assault counselor” has the meaning specified in D.C. Code § 23-1907(10); and

- (D) “Sexual assault victim” has the meaning specified in D.C. Code § 23-1907(11).

**RCC § 22E-1310. Admission of Evidence in Sexual Assault and Related Cases.<sup>3</sup>**

- (a) *Reputation or opinion evidence of complainant’s past sexual behavior 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 other evidence of complainant’s past sexual 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 Superior Court of the District of Columbia may allow the motion to be made at a later date, including during trial, if the 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 Superior Court of the District of Columbia determines that the offer of proof contains evidence described in paragraph (1) of this subsection, the 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,

---

<sup>3</sup> Admission of Evidence in Sexual Assault and Related Cases was previously numbered as RCC § 22E-1311.

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 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 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 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 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 inapplicable for spouses or domestic 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,” “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.

## **Chapter 14. Kidnapping, Criminal Restraint, and Blackmail.**

### **RCC § 22E-1401. Kidnapping.**

- (a) *First degree kidnapping.* An actor commits first degree kidnapping when the actor:
  - (1) Knowingly and substantially confines or moves the complainant;
  - (2) Either:
    - (A) Without the complainant’s effective consent; or
    - (B) By any means, including with acquiescence of the complainant, when the actor is:
      - (i) Reckless as to the facts that:
        - (I) The complainant is an incapacitated individual; and
        - (II) A person with legal authority over the complainant who is acting consistent with that authority has not given effective consent to the confinement or movement; or
      - (ii) In fact, 18 years of age or older and reckless as to the facts that:

- (I) The complainant is under 16 years of age and four years younger than the actor; and
    - (II) A person with legal authority over the complainant who is acting consistent with that authority has not given effective consent to the confinement or movement; and
  - (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 serious 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 serious bodily injury, or a sex offense defined in Chapter 13 of this Title;
    - (G) Permanently deprive a person with legal authority over the complainant of custody of the complainant; or
    - (H) Confine or move the complainant for 72 hours or more.
- (b) *Second degree kidnapping.* Except as specified in subsection (c), an actor commits second degree kidnapping when the actor:
  - (1) Knowingly and substantially confines or moves the complainant;
  - (2) Either:
    - (A) Without the complainant's effective consent; or
    - (B) By any means, including with acquiescence of the complainant, when the actor is:
      - (i) Reckless as to the facts that:
        - (I) The complainant is an incapacitated individual; and
        - (II) A person with legal authority over the complainant who is acting consistent with that authority has not given effective consent to the confinement or movement; or
      - (ii) In fact, 18 years of age or older and reckless as to the facts that:
        - (I) The complainant is under 16 years of age and four years younger than the actor; and
        - (II) A person with legal authority over the complainant who is acting consistent with that authority has not given effective consent to the confinement or movement; and
  - (3) With intent to:
    - (A) Inflict bodily injury upon the complainant;
    - (B) Cause any person to believe that the complainant will not be released without suffering bodily injury.
- (c) *Defense.* It is a defense to prosecution under subparagraphs (a)(3)(G) and (a)(3)(H) when the complainant is, in fact, under 18 years of age and the actor is either:

- (1) A close relative or a former legal guardian who had authority to control the complainant's freedom of movement who:
    - (A) Acts with intent to assume full responsibility for the care and supervision of the complainant; and
    - (B) Does not cause bodily injury or use an explicit or implicit coercive threat to cause the confinement or movement; or
  - (2) A person who reasonably believes he or she is acting at the direction of a close relative who:
    - (A) Acts with intent that the close relative will assume full responsibility for the care and supervision of the complainant; and
    - (B) Does not cause bodily injury or use an explicit or implicit coercive threat to cause the confinement or movement.
- (d) *Penalties.*
- (1) First degree 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 Kidnapping is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (3) *Penalty Enhancements.* The penalty classification of kidnapping is increased by one class when the actor commits the offense:
    - (A) Reckless as to the fact that the complainant is a protected person;
    - (B) By recklessly causing the confinement or movement by displaying or using what, in fact, is a dangerous weapon or imitation dangerous weapon; or
    - (C) With the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official.
- (e) *Multiple convictions for related offenses.* A person may be found guilty of first degree kidnapping or second degree 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 first degree kidnapping or second degree 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.
- (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; and the terms "actor," "bodily injury," "close relative," "consent," "dangerous weapon," "deception," "effective consent," "felony," "imitation dangerous weapon," "incapacitated individual," and "protected person" have the meanings specified in RCC § 22E-701.

## **RCC § 22E-1402 Criminal Restraint**

- (a) *Offense.* An actor commits criminal restraint when that actor knowingly and substantially confines or moves the complainant:

- (1) Without the complainant's effective consent; or
- (2) By any means, including with acquiescence of the complainant, when the actor is:

(A) Reckless as to the facts that:

- (i) The complainant is an incapacitated individual; and
- (ii) A person with legal authority over the complainant who is acting consistent with that authority has not given effective consent to the confinement or movement; or

(B) In fact, 18 years of age or older and reckless as to the facts that:

- (i) The complainant is under 16 years of age and four years younger than the actor; and
- (ii) A person with legal authority over the complainant who is acting consistent with that authority has not given effective consent to the confinement or movement.

(b) *Defenses.*

- (1) It is a defense that the complainant is, in fact, under 18 years of age, and the actor is:

(A) A close relative or a former legal guardian who had 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 to cause the confinement or movement; or

(B) 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 to cause the confinement or movement.

- (2) It is a defense to prosecution under paragraph (a)(2) of this section that, in fact, the actor:

(A) Is a transportation worker who moves the complainant while in the course of the worker's official duties; or

(B) Is a person who moves the complainant solely by persuading the complainant to go to a location open to the general public to engage in a commercial or other legal activity.

(c) *Affirmative defense.*

- (1) It is an affirmative defense to prosecution under paragraph (a)(1) of this section that the actor, in fact:

(A) Lacks the complainant's effective consent solely because of deception by the actor; and

(B) Does not confine or move the complainant with intent to use bodily injury or an explicit or implicit coercive threat if the deception should fail.

- (2) It is an affirmative defense to prosecution under paragraph (a)(2) that the actor, in fact, reasonably believes that a person with legal authority over the complainant would have effectively consented to the conduct constituting the offense.
- (d) *Penalties.*
- (1) Criminal restraint is a Class X offense, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) *Penalty enhancements.* The penalty classification of criminal restraint is increased by one class when the actor:
    - (A) Is reckless as to the fact that the complainant is a protected person;
    - (B) Recklessly causes the confinement or movement by displaying or using what, in fact, is a dangerous weapon or imitation dangerous weapon; or
    - (C) Has the purpose of harming the complainant because of the complainant's status as a law enforcement officer, public safety employee, or District official.
- (e) *Multiple convictions for related offenses.* A person may be found guilty of first degree kidnapping or second degree 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 first degree kidnapping or second degree 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.
- (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; and the terms "actor," "bodily injury," "close relative," "consent," "dangerous weapon," "deception," "effective consent," "imitation dangerous weapon," "incapacitated individual," and "protected person" have the meanings specified in RCC § 22E-701.

## **RCC § 22E-1403. Blackmail.**

- (a) *Offense* An actor commits blackmail when the actor:
- (1) Purposely causes another person to commit or refrain from any act,
  - (2) By communicating, explicitly or implicitly, that if the person does not commit or refrain from the act, any person will:
    - (A) Take or withhold action as an official, or cause an official to take or withhold action;
    - (B) Accuse another person of a crime;
    - (C) 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;
- (D) Significantly impair the reputation of a deceased person;
- (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;
- (G) Engage in conduct that, in fact, constitutes:
  - (i) An offense under Subtitle II of this title; or
  - (ii) A property offense as defined in subtitle III of this title.

(b) *Defenses.*

- (1) An actor does not commit an offense under subparagraph (a)(2)(D) for communicating that, in fact, any person will engage in legal employment or business actions.
- (2) An actor 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) *Affirmative defenses.*

- (1) It is an affirmative defense to liability under this section committed by means of the conduct specified in subparagraphs (a)(1)(A)-(F) that:
  - (A) The actor reasonably believes 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) Engages in the conduct with the purpose of compelling 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) 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) It is an affirmative defense to liability under this section that, in fact, the actor reasonably believes that the complainant gives effective consent to the actor to engage in the conduct constituting the offense.

(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 terms "consent," "controlled substance," and "property" have the meaning specified in RCC § 22E-701.



## Chapter 15. Abuse and Neglect of Vulnerable Persons.

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

- (a) *First degree.* An actor commits first degree criminal abuse of a minor when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is under 18 years of age; and
  - (2) Either:
    - (A) Purposely causes serious mental injury to the complainant; or
    - (B) Recklessly causes serious bodily injury to the complainant.
- (b) *Second degree.* An actor commits second degree criminal abuse of a minor when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is under 18 years of age; and
  - (2) Causes significant bodily injury to the complainant.
- (c) *Third degree.* An actor commits third degree criminal abuse of a minor when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is under 18 years of age; and
  - (2) Either:
    - (A) Causes serious mental injury to the complainant; or
    - (B) In fact, commits a predicate offense against persons against the complainant.
- (d) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the actor's conduct is specifically permitted by a District statute or regulation.
- (e) *Affirmative defense.* It is an affirmative defense to prosecution under this subsection (b) and subsection (c) of this section that the actor, in fact:
  - (1) Is not a person with legal authority over the complainant; and
  - (2) Reasonably believes that a person with legal authority over the complainant, acting consistent with that authority, would give effective consent to the injury or the conduct constituting the offense.
- (f) *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.

(g) *Definitions.*

- (1) The terms “purposely” 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,” “effective consent,” “person with legal authority over the complainant,” “serious bodily injury,” “serious mental injury,” and “significant bodily injury” have the meanings specified in RCC § 22E-701.
- (2) In this section, the term “predicate offense against persons” means:
  - (A) Fourth Degree Assault under RCC § 22E-1202(d);
  - (B) Criminal Threats under RCC § 22E-1204;
  - (C) Offensive Physical Contact under RCC § 22E-1205;
  - (D) Criminal Restraint under RCC § 22E-1404;
  - (E) Stalking under RCC § 22E-1801; or
  - (F) Electronic Stalking under RCC § 22E-1802.

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

- (a) *First degree.* An actor commits first degree criminal neglect of a minor when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is under 18 years of age; and
  - (2) Created, or failed to mitigate or remedy, a substantial risk that the complainant would experience serious bodily injury or death.
- (b) *Second degree.* An actor commits second degree criminal neglect of a minor when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is under 18 years of age; and
  - (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.
- (c) *Third degree.* An actor commits third degree criminal neglect of a minor when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is under 18 years of age; and
  - (2) Engages in one of the following:
    - (A) Knowingly leaves the complainant in any place with intent to abandon the complainant; or
    - (B) Recklessly:

- (i) 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; or
  - (ii) Creates, or fails to mitigate or remedy, a substantial risk that the complainant would experience bodily injury from consumption of alcohol, or consumption or inhalation, without a valid prescription, of a controlled substance or marijuana.
- (d) *Exclusions from liability.*
  - (1) An actor does not commit an offense under this section for conduct that, in fact, constitutes surrendering a newborn child in accordance with D.C. Code § 4-1451.01 et seq.
  - (2) An actor does not commit an offense under this section when, in fact, the actor's conduct is specifically permitted by a District statute or regulation.
- (e) *Affirmative defense.* It is an affirmative defense to prosecution under subsection (b) and subparagraph (c)(2)(B) of this section that the actor, in fact:
  - (1) Is not a person with legal authority over the complainant; and
  - (2) Reasonably believes that a person with legal authority over the complainant, acting consistent with that authority, would give effective consent to the conduct constituting the offense.
- (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; the term "in fact" has the meaning specified in RCC § 22E-207; and the terms "actor," "bodily injury," "complainant," "controlled substance," "effective consent," "person with legal authority over the complainant," "serious bodily injury," "serious mental injury," and "significant bodily injury" have the meanings specified in RCC § 22E-701.

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

- (a) *First degree.* An actor commits first degree criminal abuse of a vulnerable adult or elderly person when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is a vulnerable adult or elderly person; and
  - (2) Either:
    - (A) Purposely causes serious mental injury to the complainant; or
    - (B) Recklessly causes serious bodily injury to the complainant.

- (b) *Second degree.* An actor commits second degree criminal abuse of a vulnerable adult or elderly person when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is a vulnerable adult or elderly person; and
  - (2) Causes significant bodily injury to the complainant.
- (c) *Third degree.* An actor commits third degree criminal abuse of a vulnerable adult or elderly person when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is a vulnerable adult or elderly person; and
  - (2) Either:
    - (A) Causes serious mental injury to the complainant; or
    - (B) In fact, commits a predicate offense against persons against the complainant.
- (d) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the actor's conduct is specifically permitted by a District statute or regulation.
- (e) *Defenses.*
  - (1) It is a defense to liability under subparagraph (a)(2)(B) of this section that, in fact:
    - (A) The injury is caused by:
      - (i) A lawful cosmetic or medical procedure; or
      - (ii) An omission;
    - (B) The actor is not a person with legal authority over the complainant; and
    - (C) The actor reasonably believes that the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to cause the injury or engage in the omission that causes the injury.
  - (2) It is a defense to liability under subsection (b) and subsection (c) of this section that, in fact:
    - (A) The actor is not a person with legal authority over the complainant; and
    - (B) The actor reasonably believes that the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to:
      - (i) Cause the injury;
      - (ii) Engage in the omission that causes the injury; or
      - (iii) Engage in a lawful sport, occupation, or other concerted activity, and the actor's infliction of the injury is a reasonably foreseeable hazard of that activity.
- (f) *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.

(g) *Definitions.*

- (1) The terms “purposely” 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,” “effective consent,” “elderly person,” “omission,” “person with legal authority over the complainant,” “serious bodily injury,” “serious mental injury,” “significant bodily injury,” and “vulnerable adult” have the meanings specified in RCC § 22E-701.
- (2) In this section, the term “predicate offense against persons” means:
  - (A) Fourth Degree Assault under RCC § 22E-1202(d);
  - (B) Criminal Threats under RCC § 22E-1204;
  - (C) Offensive Physical Contact under RCC § 22E-1205;
  - (D) Criminal Restraint under RCC § 22E-1404;
  - (E) Stalking under RCC § 22E-1801; or
  - (F) Electronic Stalking under RCC § 22E-1802.

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

- (a) *First degree.* An actor commits first degree criminal neglect of a vulnerable adult or elderly person when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is a vulnerable adult or elderly person; and
  - (2) Creates, or fails to mitigate or remedy, a substantial risk that the complainant would experience serious bodily injury or death.
- (b) *Second degree.* An actor commits second degree criminal neglect of a vulnerable adult or elderly person when the actor:
  - (1) Is reckless as to the fact that:
    - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
    - (B) The complainant is a vulnerable adult or elderly person; and
  - (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 degree.* An actor commits third degree criminal neglect of a vulnerable adult or elderly person when the actor:

- (1) Is reckless as to the fact that:
  - (A) The actor has a responsibility under civil law for the health, welfare, or supervision of the complainant; and
  - (B) The complainant is a vulnerable adult or elderly person; and
- (2) Either:
  - (A) 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; or
  - (B) Creates, or fails to mitigate or remedy, a substantial risk that the complainant would experience bodily injury from consumption of alcohol, or consumption or inhalation, without a valid prescription, of a controlled substance or marijuana.
- (d) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the actor's conduct is specifically permitted by a District statute or regulation.
- (e) *Defenses.*
  - (1) It is a defense to liability under subsection (a) of this section that, in fact:
    - (A) The risk is caused by:
      - (i) A lawful cosmetic or medical procedure; or
      - (ii) An omission;
    - (B) The actor is not a person with legal authority over the complainant; and
    - (C) The actor reasonably believes that the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to engage in the conduct that constitutes the offense.
  - (2) It is a defense to liability under subsection (b) and subsection (c) of this section that, in fact:
    - (A) The actor is not a person with legal authority over the complainant; and
    - (B) The actor reasonably believes that the complainant, or a person with legal authority over the complainant acting consistent with that authority, gives effective consent to the actor to:
      - (i) Engage in the conduct that constitutes the offense; or
      - (ii) Engage in a lawful sport, occupation, or other concerted activity, and the actor's creation, or failure to mitigate or remedy, the risk is a reasonably foreseeable hazard of that activity.
- (f) *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.
- (g) *Definitions.* The term “reckless” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “bodily injury,” “complainant,” “controlled substance,” “effective consent,” “elderly person,” “omission,” “person with legal authority over the complainant,” “serious bodily injury,” “serious mental injury,” “significant bodily injury,” and “vulnerable adult” have the meanings specified in RCC § 22E-701.

## **Chapter 16. Human Trafficking.**

### **RCC § 22E-1601. Forced Labor.**

- (a) *Offense.* An actor commits forced labor when that actor:
- (1) Knowingly causes a person to provide services;
  - (2) By means of debt bondage or making an explicit or implicit coercive threat.
- (b) *Exclusions from liability.* A person does not commit an offense under this section for communicating that any person will engage in 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) *Penalties.*
- (1) Subject to any general penalty enhancements under this title, and the offense penalty enhancement in subsection (c) of this section, forced labor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) *Penalty Enhancements.* The penalty classification for forced labor increases in severity by one class when the actor commits the offense:
    - (A) Reckless as to the fact that the complainant is under 18 years of age;  
or
    - (B) By holding the complainant, or causing 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; and the terms “coercive threat” “debt bondage” and “services” have the meanings specified in RCC § 22E-701.

### **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 or submit to a commercial sex act with or for another person;
  - (2) In one or more of the following ways:
    - (A) By using physical force that causes bodily injury to, overcomes, or restrains any person;
    - (B) By making a coercive threat, explicit or implicit;

- (C) By debt bondage; 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 commercial sex 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 of appraising the nature of the commercial sex act; or
      - (III) Substantially incapable of communicating unwillingness to engage in the commercial sex act.
- (b) *Penalties.*
- (1) Subject to the general penalty enhancements in under this title, 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) *Penalty enhancements.* The penalty classification for forced commercial sex increases in severity by one class when the actor commits the offense:
    - (A) 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; or
    - (B) By recklessly holding the complainant, or causing 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; and 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.**

- (a) *Offense.* An actor commits trafficking in labor 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 services by means of debt bondage or making an explicit or implicit coercive threat.
- (b) *Penalties.*
- (1) Subject to the general penalty enhancements under this title, and the offense penalty enhancement in subsection (c) of this section, trafficking in labor is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) *Penalty enhancements.* The penalty classification for trafficking in labor increases in severity by 1 class when, the actor commits the offense:
    - (A) Reckless as to the fact that the complainant is under 18 years of age; or



- (B) By holding the complainant, or causing 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; and the terms “actor,” “coercive threat,” “complainant,” “debt bondage” and “services” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-1604. Trafficking in Forced Commercial Sex.**

- (a) *Offense.* An actor commits trafficking in forced 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 or submit to a commercial sex act with or for another person in one or more of the following ways:
    - (A) By physical force that causes bodily injury to, overcomes, or restrains any person;
    - (B) By making an explicit or implicit coercive threat;
    - (C) By debt bondage; or
    - (D) By a drug, intoxicant, or other substance, administered to the complainant without the complainant’s effective consent.
- (b) *Penalties.*
  - (1) Subject to any general penalty enhancements under this title, and the offense penalty enhancement in paragraph (b)(1) of this section, trafficking in 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) *Penalty enhancements.* The penalty classification for trafficking in forced commercial sex increases in severity by 1 class when the actor commits the offense:
    - (A) 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; or
    - (B) By recklessly holding the complainant, or causing 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; and 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 a Minor or Adult Incapable of Consenting.**

- (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 or submit to a commercial sex act with or for another person;
  - (3) With recklessness as to the fact that complainant is:

- (A) Under 18 years of age;
- (B) Incapable of appraising the nature of the commercial sex act or of understanding the right to give or withhold consent to the commercial sex 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
- (C) Incapable of communicating willingness or unwillingness to engage in the commercial sex act.

(a) *Penalties.*

- (1) Subject to any general penalty enhancements in this title and the offense penalty enhancement in subsection (b) of this section, sex trafficking of a minor or adult incapable of consenting is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) *Penalty enhancement.* The penalty classification for this offense increases in severity by one class when, the actor commits the offense and recklessly holds the complainant, or causes 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; and 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-1602, trafficking in forced commercial sex under RCC § 22E-1604, or sex trafficking of a minor or adult incapable of consenting 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 under RCC § 22E-1601 or trafficking in labor under RCC § 22E-1603; 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 any general penalty enhancements under this title:

- (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) *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 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) *Penalties.* Subject to any general penalty enhancements under this title;
  - (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.
- (d) *Definitions.* The terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the terms “actor,” “commercial sex act,” “labor,” “possess” and “services” 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 a coercive threat, explicit or implicit, 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:
      - (i) The actor is reckless that the complainant is under 18 years of age;
      - (ii) Incapable of appraising the nature of the commercial sex act or of understanding the right to give or withhold consent to the commercial sex 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) Incapable of communicating willingness or unwillingness to engage in the commercial sex act; or
      - (iv) The complainant is, in fact, under 12 years of age.
- (c) *Penalties.* Subject to any general penalty enhancements under this title:
  - (1) First degree 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 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; and 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 forced commercial sex under RCC § 22E-1604; sex trafficking of a minor or adult incapable of consenting 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) 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, 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.

#### **RCC § 22E-1613. Civil Forfeiture.**

- (a) *Property subject to forfeiture.* The following are subject to civil forfeiture:
- (1) In fact, all conveyances, including aircraft, vehicles or vessels, which are possessed with intent to be used, or are, in fact, used to facilitate the commission of an offense under Chapter 16 of the RCC; and
  - (2) In fact, all money, coins, and currency which are possessed with intent to be used, or are, in fact, used, to facilitate the commission of an offense under Chapter 16 of the RCC.
- (b) *Requirements for forfeiture.* All seizures and forfeitures under this section shall be pursuant to the standards and procedures set forth in D.C. Law 20-278.
- (c) *Definitions.* The term “intent” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the term “possess” has the meaning specified in RCC § 22E-701.

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

#### **RCC § 22E-1801. Stalking.**

- (a) *Offense.* An actor commits stalking when that actor:
- (1) Purposely 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 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; or
    - (D) In fact, committing, soliciting, or attempting:
      - (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) Negligent as to the fact that the course of conduct is without the complainant’s effective consent;

- (3) 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) An actor does not commit an offense under subparagraph (a)(1)(C) of this section when that actor is expressing an opinion on a political or public matter, and the expression is directed to a complainant who is a law enforcement officer, District official, candidate for elected office, or employee of a business that serves the public, while the complainant is involved in their official duties.
  - (2) An actor does not commit an offense under this section when that actor is:
    - (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.
- (c) *Unit of prosecution.* Where conduct is of a continuing nature, each 24-hour period constitutes one occasion.
- (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.* The penalty classification for this offense is increased by one class when the actor, in fact:
    - (A) Violates a court order or condition of release prohibiting or restricting contact with the complainant;
    - (B) Has one or more prior convictions within 10 years for:
      - (i) Stalking under RCC § 22E-1801 or a comparable offense; or
      - (ii) Electronic Stalking under RCC § 22E-1802 or a comparable offense;
    - (C) Caused more than \$5,000 in financial injury; or
    - (D) Is 18 years of age or older, is at least 4 years older than the complainant, and is reckless as to the fact that the complainant is under 18 years of age.
  - (3) *No repeat offender enhancement.* A person shall not be subject to both a penalty enhancement under subparagraph (d)(2)(B) of this section and a repeat offender penalty enhancement in RCC § 22E-606 for the same conduct.
- (e) *Definitions.*
  - (1) The terms “intent,” “negligent,” “purposely,” and “reckless” 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; and the terms “actor,” “comparable offense,” “complainant,” “District official,” “effective consent,” “law enforcement officer,” “physically following,” “physically monitoring,” “prior conviction,” “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.* An actor commits electronic stalking when that actor:

- (1) Purposely 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;

- (2) Negligent as to the fact that the course of conduct is without the complainant’s effective consent;

- (3) 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) An actor does not commit an offense under subparagraph (a)(1)(A) of this section when:

(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 effective consent to the conduct.

- (2) An actor does not commit an offense under this section when that person is:

(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.

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

(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.* The penalty classification for this offense is increased by one class when the actor, in fact:
    - (A) Violates a court order or condition of release prohibiting or restricting contact with the complainant;
    - (B) Has one or more prior convictions within 10 years for:
      - (i) Stalking under RCC § 22E-1801 or a comparable offense; or
      - (ii) Electronic Stalking under RCC § 22E-1802 or a comparable offense;
    - (C) Caused more than \$5,000 in financial injury; or
    - (D) Is 18 years of age or older, is at least 4 years older than the complainant, and is reckless as to the fact that the complainant is under 18 years of age.
  - (3) *No repeat offender enhancement.* A person shall not be subject to both a penalty enhancement under subparagraph (d)(2)(B) of this section and a repeat offender penalty enhancement in RCC § 22E-606 for the same conduct.
- (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 “actor,” “comparable offense,” “complainant,” “effective consent,” “financial injury,” “image,” “prior conviction,” “property of another,” 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-1803. Voyeurism.**

- (a) *First degree.* An actor commits first degree voyeurism when that actor:
  - (1) Knowingly creates:
    - (A) An image, other than a derivative image, of the complainant’s nude or undergarment-clad genitals, pubic area, anus, buttocks, or female breast below the top of the areola;
    - (B) 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 female breast below the top of the areola;
    - (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.* The penalty classification for any gradation of this offense is increased by one class when the actor is reckless as to the fact that the complainant is 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," and "sexual act" have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-1804. Unauthorized Disclosure of a Sexual Recording.**

- (a) *Offense.* An actor commits unauthorized disclosure of a sexual recording 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 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 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:

- (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) 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.
- (2) 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.
- (3) An actor does not commit an offense under this section when, in fact, the actor reasonably believes that they were distributing the image or audio recording to:
  - (A) A person who is depicted in the image or audio recording;
  - (B) A person who was involved in the creation or distribution of the image or audio recording; or

(c) *Affirmative defense.* It is an affirmative defense to liability under this section, that the actor:

- (1) With intent, exclusively and in good faith, to report possible illegal conduct or seek legal counsel from any attorney;
- (2) Distributed the image or audio recording to a person whom the actor reasonably believes is:
  - (A) A law enforcement officer, prosecutor, or attorney; or
  - (B) A teacher, school counselor, school administrator, or a person with a responsibility under civil law for the health, welfare, or supervision of a person who is:
    - (i) Depicted in the image or audio recording; or
    - (ii) Involved in the creation of the image or audio recording.

(d) *Penalties.*

- (1) Unauthorized disclosure of a sexual recording is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (2) *Penalty Enhancements.* The penalty classification for this offense is increased by one class when 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.

(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) 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.
  - (2) 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.
  - (3) A person does not commit an offense under this section when that person distributes or displays an image to a complainant in a location open to the general public or in an electronic forum, unless the actor:
    - (A) Knowingly distributes or displays the image directly to the complainant; or
    - (B) Purposely distributes or displays the image to the complainant.
  - (4) An actor does not commit an offense under this section when, in fact, the actor reasonably believes that they are distributing the image or audio recording to:
    - (A) A person who is depicted in the image or audio recording;
    - (B) A person who was involved in the creation or distribution of the image or audio recording; or
    - (C) A person with a responsibility under civil law for the health, welfare, or supervision of a person who is:
      - (i) Depicted in the image or audio recording; or
      - (ii) Involved in the creation of the image or audio recording.
- (c) *Affirmative defenses.*
- (1) It is an affirmative defense to liability under this section that the actor, in fact:

- (A) Is an employee of a school, museum, library, 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) It is an affirmative defense to liability under this section, that the actor:
  - (A) With intent, exclusively and in good faith, to report possible illegal conduct or seek legal counsel from any attorney;
  - (B) Distributed the image or audio recording to a person whom the actor reasonably believes is:
    - (i) A law enforcement officer, prosecutor, or attorney; or
    - (ii) A teacher, school counselor, school administrator.
- (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 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) 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) 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) 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.

- (2) 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.
  - (3) A person does not commit an offense under this section when that person distributes or displays an image to a complainant in a location open to the general public or in an electronic forum, unless the actor:
    - (A) Knowingly distributes or displays the image directly to the complainant; or
    - (B) Purposely distributes or displays the image to the complainant.
  - (4) An actor does not commit an offense under this section when, in fact, the actor reasonably believes that they are distributing the image or audio recording to:
    - (A) A person who is depicted in the image or audio recording;
    - (B) A person who was involved in the creation or distribution of the image or audio recording; or
    - (C) A person with a responsibility under civil law for the health, welfare, or supervision of a person who is:
      - (i) Depicted in the image or audio recording; or
      - (ii) Involved in the creation of the image or audio recording.
- (c) *Affirmative defenses.*
- (1) It is an affirmative defense to liability under this section that the actor in fact:
    - (A) Is an employee of a school, museum, library, 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) It is an affirmative defense to liability under this section, that the actor:
    - (A) With intent, exclusively and in good faith, to report possible illegal conduct or seek legal counsel from any attorney;
    - (B) Distributed the image or audio recording to a person whom the actor reasonably believes is:
      - (i) A law enforcement officer, prosecutor, or attorney; or
      - (ii) A teacher, school counselor, school administrator.
  - (3) It is an affirmative defense to liability 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.
- (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,” “somasochistic 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 degree.* An actor commits first degree creating or trafficking an obscene image of a minor when the 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 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) Is reckless as to the fact that the image depicts, or will depict, in part or whole, the body of a real complainant under 18 years of age engaging in or submitting to:
- (A) A sexual act or simulated sexual act;
  - (B) Somasochistic abuse or simulated somasochistic 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.* An actor commits second degree creating or trafficking an obscene image of a minor when the 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 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) Is reckless as to the fact that the image depicts, or will depict, in part or whole, the body of a real complainant under 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) An actor does not commit an offense under this section when, in fact, the actor is a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.
  - (2) An actor does not commit an offense under this section when, in fact, the actor 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.
- (d) *Affirmative defenses.*
  - (1) It is an affirmative defense to liability under subsection (a) of this section that, in fact, 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 under 18 years of age; and
    - (B) Either:
      - (i) The actor is the only person under 18 years of age who is, or who will be, depicted in the image; or
      - (ii) The actor reasonably believes that every person under 18 years of age who is, or who will be, depicted in the image, gives effective consent to the actor to engage in the conduct constituting the offense.
  - (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), and (b)(1)(D) of this section that, in fact:
    - (A) The actor is at least 18 years of age;
    - (B) Either:
      - (i) The actor is married to, or in a domestic partnership with, the complainant; or
      - (ii) The actor is in a romantic, dating, or sexual relationship with the complainant, and:



- (a) When the complainant is under 16 years of age, the actor is less than 4 years older than the complainant; and
    - (b) When the complainant is under 18 years of age and the actor is at least 4 years older than the complainant, the actor is not in a position of trust with or authority over the complainant; and
  - (C) 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;
  - (D) The actor reasonably believes that the complainant gives effective consent to the actor to engage in the conduct constituting the offense; and
  - (E) Under subparagraphs (a)(1)(C), (b)(1)(C), (a)(1)(D), and (b)(1)(D), the actor reasonably believes that the recipient, the intended recipient, or the user of the electronic platform is the complainant.
- (4) It is an affirmative defense to liability under subparagraphs (a)(1)(C) and (b)(1)(C) of this section for displaying or distributing an image that the actor:
- (A) With intent, exclusively and in good faith, to report possible illegal conduct or seek legal counsel from any attorney;
  - (B) In fact, distributes or displays the image to a person whom the actor reasonably believes is:
    - (i) A law enforcement officer, prosecutor, or attorney; or
    - (ii) A teacher, school counselor, school administrator, or person with a responsibility under civil law for the health, welfare, or supervision of a 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, 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.
- (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; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “complainant,” “domestic partnership,” “effective consent,” “image,” “law enforcement officer,” “obscene,” “somasochistic 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 degree.* An actor commits first degree possession of an obscene image of a minor when the actor:
  - (1) Knowingly possesses an image;
  - (2) Is reckless as to the fact that the image depicts, in part or whole, the body of a real complainant under 18 years of age engaging in or submitting to:
    - (A) A sexual act or simulated sexual act;
    - (B) Somasochistic abuse or simulated somasochistic 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.* An actor commits second degree possession of an obscene image of a minor when the actor:
  - (1) Knowingly possesses an image;
  - (2) Is reckless as to the fact that the image depicts, in part or whole, the body of a real complainant under 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) An actor does not commit an offense under this section when, in fact, the actor is a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) engaged in activities regulated pursuant to such Act.
  - (2) An actor does not commit an offense under this section when, in fact, the actor 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.
- (d) *Affirmative defenses.*
  - (1) It is an affirmative defense to liability under subsection (a) of this section that, in fact, 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:
    - (A) The actor is under 18 years of age; and
    - (B) Either:

- (i) The actor is the only person under 18 years of age who is depicted in the image; or
  - (ii) The actor reasonably believes that every person under 18 years of age who is depicted in the image gives effective consent to the actor to engage in the conduct constituting the offense.
- (3) It is an affirmative defense to liability under this section that, in fact:
  - (A) The actor is at least 18 years of age;
  - (B) Either:
    - (i) The actor is married to, or in a domestic partnership with, the complainant; or
    - (ii) The actor is in a romantic, dating, or sexual relationship with the complainant, and:
      - (a) When the complainant is under 16 years of age, the actor is less than 4 years older than the complainant; and
      - (b) When the complainant is under 18 years of age and the actor is at least 4 years older than the complainant, the actor is not in a position of trust with or authority over the complainant; and
  - (C) 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
  - (D) The actor reasonably believes that the complainant gives effective consent to the actor to engage in the conduct constituting the offense.
- (4) It is an affirmative defense to liability under this section that the actor:
  - (A) With intent, exclusively and in good faith, to report possible illegal conduct or to seek legal counsel from any attorney;
  - (B) In fact, promptly contacts a person whom the actor reasonably believes is:
    - (i) A law enforcement officer, prosecutor, or attorney; or
    - (ii) A teacher, school counselor, school administrator, or person with a responsibility under civil law for the health, welfare, or supervision of the complainant that the actor reasonably believes to be depicted in the image; and
  - (C) Either:
    - (i) Promptly distributes the image to one of the 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 officer access to the image.
- (5) It is an affirmative defense to liability under this section that the actor, in fact:
  - (A) Is an employee of a school, museum, library, 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.

(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 “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,” “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 degree.* An actor commits first degree arranging a live sexual performance of a minor when the actor:

(1) Knowingly:

- (A) Creates, produces, or directs a live performance;
- (B) As a person with a responsibility under 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 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.* An actor commits second degree arranging a live sexual performance of a minor when the actor:

(1) Knowingly:

- (A) Creates, produces, or directs a live performance;
- (B) As a person with a responsibility under 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 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) *Affirmative defenses.*
  - (1) It is an affirmative defense to liability under subsection (a) of this section that, in fact, the live performance 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), (b)(1)(A), and (b)(1)(B) of this section that, in fact
    - (A) The actor is under 18 years of age; and
    - (B) Either:
      - (i) The actor is the only person under 18 years of age who is, or who will be, depicted in the live performance; or
      - (ii) The actor reasonably believes that every person under 18 years of age who is, or who will be, depicted in the live performance, gives effective consent to the actor to engage in the conduct constituting the offense.
  - (3) It is an affirmative defense to liability under subparagraphs (a)(1)(A) and (b)(1)(A) of this section, that, in fact:
    - (A) The actor is at least 18 years of age;
    - (B) Either:
      - (i) The actor is married to, or in a domestic partnership with, the complainant; or
      - (ii) The actor is in a romantic, dating, or sexual relationship with the complainant, and;
        - (a) When the complainant is under 16 years of age, the actor is less than 4 years older than the complainant; and
        - (b) When the complainant is under 18 years of age and the actor is at least 4 years older than the complainant, the actor is not in a position of trust with or authority over the complainant; and
    - (C) 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;
    - (D) The actor reasonably believes that the complainant gives effective consent to the actor to engage in the conduct constituting the offense; and
    - (E) 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)(C) and (b)(1)(C) that the actor, in fact:
  - (A) Is an employee of a school, museum, library, 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.
- (d) *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.
- (e) *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,” “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.* An actor commits attending or viewing a live sexual performance of a minor when the 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 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.* An actor commits attending or viewing a live sexual performance of a minor when the 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 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) *Affirmative defenses.*

- (1) It is an affirmative defense to liability under this section that, in fact, 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 under 18 years of age; and
  - (B) Either:
    - (i) The actor is the only person under 18 years of age who is depicted in the live performance or live broadcast; or
    - (ii) The actor reasonably believes that every person under 18 years of age who is depicted in the live performance or live broadcast gives effective consent to the actor to engage in the conduct constituting the offense.
- (3) It is an affirmative defense to liability under this section that, in fact:
  - (A) The actor is at least 18 years of age;
  - (B) Either:
    - (i) The actor is married to, or in a domestic partnership with, the complainant; or
    - (ii) The actor is in a romantic, dating, or sexual relationship with the complainant, and;
      - (a) When the complainant is under 16 years of age, the actor is less than 4 years older than the complainant; and
      - (b) When the complainant is under 18 years of age and the actor is at least 4 years older than the complainant, the actor is not in a position of trust with or authority over the complainant; and
  - (C) 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;
  - (D) The actor reasonably believes that the complainant gives effective consent to the actor to engage in the conduct constituting the offense; and
  - (E) The actor reasonably believes that the actor is the only audience for the live performance or live broadcast, other than the complainant.
- (4) It is an affirmative defense to liability under this section that the actor, in fact:
  - (A) Is an employee of a school, museum, library, 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.

(d) *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.
- (e) *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,” “complainant,” “domestic partnership,” “effective consent,” “live broadcast,” “live performance,” “sexual act,” “sexual contact,” and “simulated” have the meanings specified in RCC § 22E-701.

### **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, Unlawful Labeling of a Recording;
- (i) RCC § 22E-2208, Financial Exploitation of a Vulnerable Adult or Elderly Person;
- (j) RCC § 22E-2301, Extortion;
- (k) RCC § 22E-2401, Possession of Stolen Property;
- (l) RCC § 22E-2402, Trafficking of Stolen Property;
- (m) RCC § 22E-2403, Alteration of Motor Vehicle Identification Number; and,
- (n) RCC § 22E-2503, Criminal Damage to Property.

#### **Chapter 21. Theft.**

##### **RCC § 22E-2101. Theft.**

- (a) *First degree.* An actor commits first degree theft when the actor:



- (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 degree.* An actor commits second degree theft when the actor:
- (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.
- (c) *Third degree.* An actor commits third degree theft when the actor:
- (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; or
    - (B) The property is a motor vehicle.
- (d) *Fourth degree.* An actor commits fourth degree theft when the actor:
- (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 \$500 or more; or
    - (B) The property is taken from a complainant who possesses the property within the complainant's immediate physical control.
- (e) *Fifth degree.* An actor commits fifth degree theft when the actor:
- (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) *Exclusion from liability.* An actor does not commit an offense under this section for conduct that, in fact, constitutes 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; and the terms “actor,” “complainant,” “consent,” “deprive,” “motor vehicle,” “owner,” “possesses,” “property,” “property of another,” and “value” have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits unauthorized use of property when the actor:
- (1) Knowingly takes, obtains, transfers, or exercises control over the property of another;
  - (2) Without the effective consent of an owner.
- (b) *Exclusion from liability.* An actor does not commit an offense under this section for conduct that, in fact, constitutes a violation of D.C. Code § 35-252, Failure to pay established fare or to present valid transfer.
- (c) *Defense.* It is a defense to liability under this section that, in fact:
- (1) The actor reasonably believes that the property is lost or was stolen by a third party; and
  - (2) Engages in the conduct constituting the offense with intent to return the property to a lawful owner.
- (d) *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.
- (e) *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,” “effective consent,” “owner,” “property,” and “property of another” have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits unauthorized use of a motor vehicle when the actor:
- (1) Knowingly operates a motor vehicle;
  - (2) Without the effective consent of an owner.
- (b) *Defense.* It is a defense to liability under this section that, in fact:
- (1) The actor reasonably believes that the motor vehicle is lost or was stolen by a third party; and
  - (2) Engages in the conduct constituting the offense with intent to return the motor vehicle to a lawful owner.
- (c) *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.
- (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 “actor,” “effective consent,” “motor vehicle,” and “owner” have the meanings specified in RCC § 22E-701.

## **RCC § 22E-2104. Shoplifting.**

- (a) *Offense.* An actor commits shoplifting when the actor:
  - (1) Knowingly:
    - (A) Holds or carries on the actor'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) *No attempt liability.* The general attempt provision in RCC § 22E-301 does not apply to 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, in fact:
  - (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 term "in fact" has the meaning specified in RCC § 22E-207; and the terms "actor," "person," "property," and "property of another" have the meanings specified in RCC § 22E-701.

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

- (a) *First degree.* An actor commits first degree unlawful creation or possession of a recording when the actor:
  - (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 recordings made, obtained, or possessed is 100 or more.
- (b) *Second degree.* An actor commits second degree unlawful creation or possession of a recording when the actor:
  - (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 recordings were made, obtained, or possessed.
- (c) *Exclusions from liability.* An actor does not commit an offense under this section when the actor, in fact:
  - (1) Copies or reproduces a sound recording or audiovisual recording in the manner specifically permitted by Title 17 of the United States Code; or
  - (2) Copies or 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 of 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.
- (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 “actor,” “audiovisual recording,” “effective consent,” “live performance,” “possesses,” and “sound recording” have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits unlawful operation of a recording device in a motion picture theater when the actor:
  - (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, in fact:
  - (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 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 any recording and all equipment used, or attempted to be used, in violation of this section.
- (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; and the terms “actor,” “effective consent,” “owner,” “person,” and “recording device” have the meanings specified in RCC § 22E-701.
  - (2) In this section, the term “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.

## **Chapter 22. Fraud.**

### **RCC § 22E-2201. Fraud.**

- (a) *First degree.* An actor commits first degree fraud when the actor:
  - (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 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.* An actor commits second degree fraud when the actor:
  - (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 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.* An actor commits third degree fraud when the actor:
  - (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 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.* An actor commits fourth degree fraud when the actor:
  - (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 an owner of the property; and
  - (4) In fact:
    - (A) The property, other than labor or services, has a value of \$500 or more; or
    - (B) The property is 8 hours or more of labor or services.
- (e) *Fifth degree.* An actor commits fifth degree fraud when the actor:
  - (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 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.

**RCC § 22E-2202. Payment Card Fraud.**

- (a) *First degree.* An actor commits first degree payment card fraud when the actor:
  - (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 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.* An actor commits second degree payment card fraud when the actor:
  - (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 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.* An actor commits third degree payment card fraud when the actor:
  - (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 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.* An actor commits fourth degree payment card fraud when the actor:
  - (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 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.* An actor commits fifth degree payment card fraud when the actor:
  - (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 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) *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.
- (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.

### **RCC § 22E-2203. Check Fraud.**

- (a) *First degree.* An actor commits first degree check fraud when the actor:
  - (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, \$5,000 or more.
- (b) *Second degree.* An actor commits second degree check when the actor:
  - (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, \$500 or more.
- (c) *Third degree.* An actor commits second degree check when the actor:
  - (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 “actor,” “check,” “person,” and “property” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-2204. Forgery.**

- (a) *First degree.* An actor commits first degree forgery when the actor:
  - (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 \$50,000 or more.
- (b) *Second degree.* An actor commits second degree forgery when the actor:
  - (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 \$5,000 or more.
- (c) *Third degree.* An actor commits third degree forgery when the actor:
  - (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:
        - (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.

## **RCC § 22E-2205. Identity Theft.**

- (a) *First degree.* An actor commits identity theft when the actor:
  - (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.* An actor commits second degree identity theft when the actor:
  - (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.* An actor commits third degree identity theft when the actor:
  - (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 the actor:
  - (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.* An actor commits fifth degree identity theft when the actor:
  - (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) *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 person whose identifying information was taken, possessed, or used knows, or reasonably should have known, of the identity theft, whichever occurs earlier.
- (g) *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.
- (h) *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.
- (i) *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.

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

- (a) When a person is convicted, adjudicated delinquent, or found not guilty of identity theft under the mental disability affirmative defense in RCC § 22E-504, 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-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-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-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.* An actor commits first degree unlawful labeling of a recording when the actor:
  - (1) Knowingly possesses sound recordings or audiovisual recordings that do not clearly and conspicuously disclose the true name and address of the manufacturer on their labels, covers, or jacket that, in fact, number 100 or more;
  - (2) With intent to sell or rent the sound recordings or audiovisual recordings.
- (b) *Second degree.* An actor commits second degree unlawful labeling of a recording when the actor:
  - (1) Knowingly possesses 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.* A person does not commit an offense under this section when that person:
  - (1) Transfers any sounds or images recorded on a sound recording or audiovisual recording in connection with, or as part of, a radio or television broadcast transmission, or for the purposes of archival preservation; or
  - (2) Transfers, in his or her home for his or her own personal use, any sounds or images recorded on a sound recording or audiovisual recording.
- (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 “actor,” “audiovisual recording,” “court,” “image,” “person,” “possess,” and “sound recording” have the meanings specified in RCC § 22E-701.
- (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.* An actor commits first degree financial exploitation of a vulnerable adult or elderly person when the actor:
  - (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
  - (2) The value of the property or the amount of the financial injury, whichever is greater, in fact, is \$500,000 or more
- (b) *Second degree.* An actor commits second degree financial exploitation of a vulnerable adult or elderly person when the actor:
  - (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
  - (2) The value of the property or the amount of the financial injury, whichever is greater, in fact, is \$50,000 or more
- (c) *Third degree.* An actor commits third degree financial exploitation of a vulnerable adult or elderly person when the actor:
  - (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
  - (2) The value of the property or the amount of the financial injury, whichever is greater, in fact, is \$5,000 or more
- (d) *Fourth degree.* An actor commits fourth degree financial exploitation of a vulnerable adult or elderly person when the actor:
  - (1) Commits fifth degree financial exploitation of a vulnerable adult or elderly person, and
  - (2) The value of the property or the amount of the financial injury, whichever is greater, in fact, is \$500 or more
- (e) *Fifth degree.* An actor commits fifth degree financial exploitation of a vulnerable adult or elderly person when the actor:
  - (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 reckless as to the fact 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 (f) 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 “actor,” “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.

**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.
- (b) *Petition for injunctive relief and protections.* Whenever the Attorney General for the District of Columbia 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 for the District of Columbia 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 for the District of Columbia 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 District of Columbia or 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.* An actor commits first degree trademark counterfeiting when the actor:
- (1) Knowingly manufactures for 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 has a total retail value of \$5,000 or more.
- (b) *Second degree.* An actor commits second degree trademark counterfeiting when the actor:

- (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.* A person does not commit an offense under this section if that person uses a trademark in a manner that 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 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.* 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 “actor,” “counterfeit mark,” “possesses,” “property,” and “retail value” have the meanings specified in RCC § 22E-701.

## **Chapter 23. Extortion.**

### **RCC § 22E-2301. Extortion.**

- (a) *First degree.* An actor commits first degree extortion when the actor:
  - (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 an owner of the property; and
  - (5) The property, in fact, has a value of more than \$500,000.
- (b) *Second degree.* An actor commits second degree extortion when the actor:
  - (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 an owner of the property; and
  - (5) The property, in fact, has a value of more than \$50,000.
- (c) *Third degree.* An actor commits third degree extortion when the actor:
  - (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 an owner of the property; and
  - (5) The property, in fact, has a value of more than \$5,000.
- (d) *Fourth degree.* An actor commits fourth degree extortion when the actor:
  - (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 an owner of the property; and
  - (5) The property, in fact, has a value of more than \$500.
- (e) *Fifth degree.* An actor commits fifth degree extortion when the actor:
  - (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 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 “actor,” “consent,” “coercive threat,” “deprive,” “person,” “property,” “property of another,” and “value” have the meanings specified in RCC § 22E-701.

## Chapter 24. Stolen Property.

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

- (a) *First degree.* An actor commits first degree possession of stolen property when the actor:
  - (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.* An actor commits second degree possession of stolen property when the actor:
  - (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.* An actor commits third degree possession of stolen property when the actor:
  - (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.* An actor commits fourth degree possession of stolen property when the actor:
  - (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.* An actor commits fifth degree possession of stolen property when the actor:
  - (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 “actor,” “deprive,” “person,” “possess,” “property,” and “value” have the meanings specified in RCC § 22E-701.

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

- (a) *First degree.* An actor commits first degree trafficking of stolen property when the actor:
- (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) Total property trafficked, in fact, has a value of \$500,000 or more.
- (b) *Second degree.* An actor commits second degree trafficking of stolen property when the actor:
- (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) Total property trafficked, in fact, has a value of \$50,000 or more.
- (c) *Third degree.* An actor commits third degree trafficking of stolen property when the actor:
- (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) Total property trafficked, in fact, has a value of \$5,000 or more.
- (d) *Fourth degree.* An actor commits fourth degree trafficking of stolen property when the actor:
- (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) Total property trafficked, in fact, has a value of \$500 or more.
- (e) *Fifth degree.* An actor commits fifth degree trafficking of stolen property when the actor:
- (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 “actor,” “person,” “possess,” “property,” and “value” have the meanings specified in RCC § 22E-701.

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

- (a) *First degree.* An actor commits first degree alteration of a vehicle identification number when the actor:
- (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) The value of such motor vehicle or motor vehicle part, in fact, is \$5,000 or more.
- (b) *Second degree.* An actor commits second degree alteration a vehicle identification number when the actor:
- (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 “actor,” “identification number,” “person,” “motor vehicle,” and “value” have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits alteration of a bicycle identification numbers when the actor:
- (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; and the term “actor” has the meaning specified in RCC § 22E-701; and
- (2) In this section, the term “identification number” has the meaning provided in section D.C. Code § 50-1609.

## **Chapter 25. Property Damage.**

### **RCC § 22E-2501. Arson.**

- (a) *First degree.* An actor commits first degree arson when the actor:
  - (1) Knowingly starts a fire, or causes an explosion, that damages or destroys a dwelling or building;
  - (2) Is 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 degree.* An actor commits second degree arson when the actor:
  - (1) Knowingly starts a fire, or causes an explosion, that damages or destroys a dwelling or building;
  - (2) Is 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 degree.* An actor commits third degree arson when the actor knowingly starts a fire, or causes an explosion, that damages or destroys a dwelling or building.
- (d) *Affirmative defense.* It is an affirmative defense to liability under subsection (c) of this section that the 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; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “building,” and “dwelling” have the meanings specified in RCC § 22E-701.

### **RCC § 22E-2502. Reckless Burning.**

- (a) *Offense.* An actor commits reckless burning when the actor:
  - (1) Knowingly starts a fire or causes an explosion; and

- (2) Is reckless as to the fact that the fire or explosion damages or destroys a dwelling or building.
- (b) *Affirmative defense.* It is an affirmative defense to liability under this section that the 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 “reckless” have the meanings specified in RCC § 22E-206; and the terms “actor,” “building,” and “dwelling” have the meanings specified in RCC § 22E-701.

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

- (a) *First degree.* An actor commits first degree criminal damage to property when the actor:
  - (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 degree.* An actor commits second degree criminal damage to property when the actor:
  - (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 degree.* An actor commits third degree criminal damage to property when the actor:
  - (1) 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; or
  - (2) 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.* An actor commits fourth degree criminal damage to property when the actor:
  - (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.* An actor commits fifth degree criminal damage to property when the actor:
  - (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 any amount of 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; and the terms “actor,” “amount of damage,” “effective consent,” “owner,” “property,” and “property of another” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-2504. Criminal Graffiti.**

- (a) *Offense.* An actor commits criminal graffiti when the actor:
  - (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 “actor,” “effective consent,” “owner,” and “property of another” have the meanings specified in RCC § 22E-701.

### **Chapter 26. Trespass.**

#### **RCC § 22E-2601. Trespass.**

- (a) *First degree.* An actor commits first degree trespass when that actor:
  - (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.* An actor commits second degree trespass when that actor:
  - (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.* An actor commits third degree trespass when that actor:
  - (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) An actor does not commit an offense under this section by violating a District of Columbia Housing Authority bar notice, unless the bar notice is lawfully issued pursuant to the District of Columbia Municipal Regulations on an objectively reasonable basis.
  - (2) An actor does not commit an offense under this section for conduct that, in fact, constitutes 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 an actor 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) *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.
- (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 "actor," "building," "dwelling," "person," and "motor vehicle" have the meanings specified in RCC § 22E-701.

## **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 that is, in fact, an offense under Subtitle II of this title or a predicate property offense.
- (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 that is, in fact, an offense under Subtitle II of this title or a predicate property offense.
- (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;
    - (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 or more District offenses that is, in fact, an offense under Subtitle II of this title or a predicate property offense.
- (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.* The penalty classification for any gradation of 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; and the terms "actor," "building," "business yard," "dangerous weapon," "dwelling," "imitation dangerous weapon," "imitation firearm," "open to the general public," and "person" have the meanings specified in RCC § 22E-701.
  - (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.* An commits possession of tools to commit property crime when that actor:
- (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 one or more District offenses that is, in fact:
    - (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.* The general attempt provision in RCC § 22E-301 does not apply to this section.
- (c) *Penalties.* Possession of tools to commit property crime is a Class ☒ crime, subject to a maximum term of imprisonment of ☒, a maximum fine of ☒, or both.
- (d) *Definitions.* The terms “knowingly” and “intent” have the meanings specified in RCC § 22E-206; and the terms “actor,” “person,” “possesses,” and “property” have the meanings specified in RCC § 22E-701.

#### **SUBTITLE IV. OFFENSES AGAINST GOVERNMENT OPERATION.**

##### **Chapter 32. Perjury and Other Official Falsification Offenses.**

##### **RCC § 22E-3201. Impersonation of an Official.**

- (a) *First degree.* An actor commits first degree impersonation of an official when that actor:
- (1) With intent:
    - (A) To deceive any other person as to the actor’s lawful authority; and
    - (B) To cause harm to another or that any person receive a personal benefit of any kind;
  - (2) Knowingly and falsely represents themselves to currently hold lawful authority as a:
    - (A) Judge of a federal or local court in the District of Columbia;
    - (B) Prosecutor for the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia;

- (C) Notary public;
  - (D) Law enforcement officer;
  - (E) Public safety employee;
  - (F) District official;
  - (G) District employee with power to enforce District laws or regulations; or
  - (H) Person authorized to solemnize marriage; and
- (3) Performs the duty, exercises the authority, or attempts to perform the duty or exercise the authority pertaining to a person listed in paragraph (a)(2).
- (b) *Second degree.* An actor commits second degree impersonation of an official when that actor:
  - (1) With intent:
    - (A) To deceive any other person as to the actor's lawful authority; and
    - (B) To cause harm to another or that any person receive a personal benefit of any kind;
  - (1) Knowingly and falsely represents themselves to currently hold lawful authority as a:
    - (A) Judge of a federal or local court in the District of Columbia;
    - (B) Prosecutor for the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia;
    - (C) Notary public;
    - (D) Law enforcement officer;
    - (E) Public safety employee;
    - (F) District official;
    - (G) District employee with power to enforce District laws or regulations; or
    - (H) Person authorized to solemnize marriage.
- (c) *Civil provision regarding use of official uniform insignia.* The Metropolitan Police Department and the Fire and Emergency Medical Services Department shall have the sole and exclusive rights to have and use, in carrying out their respective missions, the official badges, patches, emblems, copyrights, descriptive or designating marks, and other official insignia displayed upon their current and future uniforms.
- (d) *Penalty.*
  - (1) First degree impersonation of an official is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) Second degree impersonation of an official 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 meaning specified in RCC § 22E-206; and the terms "actor," "deceive," "District official," "law enforcement officer," and "public safety officer" have the meaning specified in RCC § 22E-701.

**RCC § 22E-3202. Misrepresentation as a District of Columbia Entity.**

- (a) *Offense.* An actor commits misrepresentation as a District of Columbia entity when that actor:
- (1) Knowingly:
    - (A) Engages in the business of collecting or aiding in the collection of debts or obligations, or of providing private police, investigation, or other detective services; and
    - (B) Uses the words “District of Columbia”, “District”, or “D.C.” in the business name or in a business communication;
  - (2) With intent to:
    - (A) Deceive any other person as to the actor’s lawful authority as a District of Columbia entity; and
    - (B) Receive a personal or business benefit of any kind; and
  - (3) In fact, the name or communication would cause a reasonable person in the complainant’s circumstances to believe that the actor is a District of Columbia government entity or representative.
- (b) *Prosecutorial authority.* The Attorney General for the District of Columbia shall prosecute violations of this section.
- (c) *Penalty.* Misrepresentation as a District of Columbia entity 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 terms “with intent” and “knowingly” have the meanings specified in RCC § 22E-206; the terms “in fact” and “complainant” have the meanings specified in RCC § 22E-206; and the term “deceive,” has the meaning specified in RCC §22E-701.
  - (2) In this section, the term “actor,” in addition to the meaning specified in RCC §22E-701, includes a legal entity that is not a natural person.

## **Chapter 34. Government Custody.**

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

- (a) *First degree.* An actor commits first degree escape from a correctional facility or officer when that actor:
- (1) In fact, is subject to a court order that authorizes the actor’s confinement in a correctional facility, secure juvenile detention facility, or cellblock operated by the United States Marshals Service; and
  - (2) Knowingly, without the effective consent of the Mayor, the Director of the Department of Corrections, the Director of the Department of Youth Rehabilitation Services, or the United States Marshals Service, leaves the correctional facility, juvenile detention facility, or cellblock operated by the United States Marshals Service.
- (b) *Second degree.* An actor commits second degree escape from an institution or officer when that actor:
- (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.* An actor commits third degree escape from an institution or officer when that actor:
  - (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.* An actor does not commit an offense under subsection (b) of this section when that actor 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.
- (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 "actor," "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.* An actor commits tampering with a detection device when that actor:
  - (1) Knows the person is required to wear a detection device while:
    - (A) Subject to a final civil protection order issued under D.C. Code § 16-1005;
    - (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 case; and
- (2) Intentionally:
  - (A) Removes the detection device or allows an unauthorized person to do so; or
  - (B) Interferes with the emission or detection 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 actor is physically present in the District of Columbia.
- (b) *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.
- (c) *Definitions.* The terms “intentionally” and “knows” have the meanings specified in RCC § 22E-206; and the terms “actor” and “detection device” have the meanings specified in RCC § 22E-701.

**RCC § 22E-3403. Correctional Facility Contraband.**

- (a) *First degree.* An actor commits first degree correctional facility contraband when that actor:
  - (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.* An actor commits second degree correctional facility contraband when that actor:
  - (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.* An actor does not commit an offense under this section for possessing:
  - (1) A portable electronic communication device, in the course of a legal visit;
  - (2) A controlled substance that is prescribed to that person and medically necessary to have immediately or constantly accessible; or
  - (3) 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 an actor 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 actor 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 “actor,” “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.* An actor commits first degree possession of a prohibited weapon or accessory when that actor:
  - (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.* An actor commits second degree possession of a prohibited weapon or accessory when that actor:
  - (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.* An actor does not commit an offense under this section when that actor satisfies the criteria in RCC § 22E-4118.
- (d) *Affirmative defense.* It is an affirmative defense to liability under this section that the actor 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.* 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 “actor,” “ammunition,” “assault weapon,” “bump stock,” “large capacity ammunition feeding device,” “machine gun,” “possesses,” “restricted explosive,” and “sawed-off shotgun” have the meanings specified in RCC § 22E-701.

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

- (a) *First degree.* An actor commits first degree carrying a dangerous weapon when that actor:
  - (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) The firearm, pistol, or restricted explosive is conveniently accessible and within reach; and
  - (3) The actor is in a location that is:
    - (A) Not the actor’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.* An actor commits second degree carrying a dangerous weapon when that actor:
  - (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) The firearm, pistol, or restricted explosive is conveniently accessible and within reach; and
  - (3) The actor is in a location that is not the person's home, place of business, or land.
- (c) *Third degree.* An actor commits third degree carrying a dangerous weapon when that actor:
  - (1) Knowingly possesses a dangerous weapon;
  - (2) The dangerous weapon is conveniently accessible and within reach;
  - (3) The actor is 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.* An actor does not commit an offense under this section, when that actor satisfies the criteria in RCC § 22E-4118.
- (e) *Affirmative defense.* It is an affirmative defense to liability under this section that the actor 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 ☒ crime, subject to a maximum term of imprisonment of ☒, a maximum fine of ☒, or both.
  - (2) Second degree carrying a dangerous weapon is a Class ☒ crime, subject to a maximum term of imprisonment of ☒, a maximum fine of ☒, or both.
  - (3) Third degree carrying a dangerous weapon is a Class ☒ crime, subject to a maximum term of imprisonment of ☒, a maximum fine of ☒, 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 "actor," "building," "dangerous weapon," "firearm," "pistol," "restricted explosive," and "serious bodily injury," have the meanings specified in RCC § 22E-701.

**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 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 under Subtitle II of this title; or
    - (B) An offense 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 under Subtitle II of this title; or
    - (B) Burglary under RCC § 22E-2701.
- (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 an offense under Subtitle II of this title.
- (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 an offense under Subtitle II of this title.
- (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 crime of violence other than conspiracy or a comparable offense.
- (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, within 10 years;
      - (ii) An offense under Chapter 41 of this subtitle, or a comparable offense, within 5 years; or
      - (iii) An intrafamily offense, as defined in D.C. Code § 16-1001(8), that requires as an element confinement, sexual conduct, bodily injury, or threats, or a comparable offense, within 5 years.
    - (B) Is a fugitive from justice; or
    - (C) Is, in fact, subject to a final civil protection order issued under D.C. Code § 16-1005.
- (c) *Exclusion from liability.* A person does not commit an offense under this section for possession of a firearm within the first 24 hours of the prior conviction or service of the protection order.
- (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 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.

(f) *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,” “prior conviction,” 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.

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

- (a) *Offense.* An actor commits negligent discharge of a firearm when that actor:
  - (1) Negligently discharges a projectile from 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 “actor” and “firearm” have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits alteration of a firearm identification mark when that actor:
  - (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; and the terms “actor” and “firearm” have the meanings specified in RCC § 22E-701.

- (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 by any person other than a law enforcement officer 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, neither the firearm nor any ammunition is conveniently accessible and within reach from the passenger area of the motor vehicle; or
    - (B) If the motor vehicle does not have a compartment separate from the passenger area, 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.* The terms “ammunition,” “firearm,” “possess,” and “motor vehicle” have the meanings specified in RCC § 22E-701.

**RCC § 22E-4110. Civil Provisions for 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 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 person within the District of Columbia for not more than 2 years from the date of issue, if it appears that the person 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 person within the District of Columbia for not more than 2 years from the date of issue, provided that the person 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.* The term “pistol” has the meaning specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits unlawful sale of a pistol when that actor:
  - (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 [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,” “firearm,” “pistol,” and “possess” have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits unlawful transfer of a firearm when that actor:

- (1) Knowingly, as the seller of a firearm, delivers the firearm to a purchaser:
  - (A) Fewer than 10 days after the date of the purchase, 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 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.* An actor does not commit an offense under this section when that actor is a wholesale dealer selling a firearm to a dealer 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.* The term "knowingly" has the meaning specified in RCC § 22E-206; the terms "actor," "assault weapon," "firearm" and "law enforcement officer," "machine gun," and "sawed-off shotgun" have the meanings specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits 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 license under RCC § 22E-4114; or
  - (2) As a wholesale dealer, sells, or possesses with intent to sell, a firearm to any person other than a 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.* The term "knowingly" has the meaning specified in RCC § 22E-206; and the terms "assault weapon," "firearm," "machine gun," "possess," and "sawed-off shotgun" have the meanings specified in RCC § 22E-701.

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

- (a) The Mayor of the District of Columbia may, in their discretion, grant licenses and may prescribe the form thereof, effective for not more than one year 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 to follow the following licensure requirements:
  - (1) Firearm sales shall occur 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 RCC § 22E-4105;
    - (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 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 of all firearms in the possession of the licensee, in a form prescribed by the Mayor. The record shall contain the date of purchase, the caliber, make, model, and manufacturer's number of each 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, in a form prescribed by the Mayor. The record 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, 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 RCC § 22E-4105. A copy of the 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 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,” “possess,” and “sawed-off shotgun” have the meanings specified in RCC § 22E-701.
- (2) In this section, 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.* An actor commits unlawful sale of a firearm by a licensed dealer when that actor:
  - (1) In fact, is a licensed dealer under RCC § 22E-4114; and
  - (2) Recklessly violates a licensure requirement specified in RCC § 22E-4114(b).
- (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; and the term “actor” has the meaning specified in RCC § 22E-701.

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

- (a) *Offense.* An actor commits use of false information for purchase or licensure of a firearm when that actor 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.* The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms “actor,” “firearm,” and “pistol” have the meanings specified in RCC § 22E-701.

**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 the officer reasonably believes is a nuisance under subsection (a) of this section the officer shall take it into their 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 period, the Property Clerk shall notify each 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 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 shall determine which claimant, if any, is entitled to possession of such dangerous article and shall reduce their decision to writing. The Property Clerk shall send a true copy of the written decision to each claimant by registered mail addressed to the last known address of the claimant.
  - (3) Any claimant may, within 30 days after the day on which the copy of the 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 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 appeal is pending and, if the final judgment is entered by the court, the Property Clerk shall dispose of the dangerous article in accordance with the judgment of the 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 dangerous article consistent with subsection (e) of this section.
  - (4) If there is no appeal, or if the appeal is dismissed or withdrawn, the Property Clerk shall dispose of the 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 own decision or in accordance with the judgment of the court, until the United States Attorney for the District of Columbia or the Attorney General for the District of Columbia certifies to the Property Clerk that the 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 shows, on satisfactory evidence that the ownership is lawful and:
    - (A) The person is the owner of the dangerous article; or
    - (B) The person is the accredited representative of the owner and has a power of attorney from the owner;
  - (2) The claimant 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 knowledge or consent; and

- (3) The receipt of possession by the claimant does not cause the article to be a nuisance.
- (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. If no person so claiming is entitled to its possession as determined under subsections (c) and (d) of this section, or if there is no claimant, the dangerous article shall be destroyed or, upon order of the Mayor of the District of Columbia, transferred to and used by any federal or District government law enforcement agency. A District government agency receiving a dangerous article under this section shall establish property responsibility and records.
- (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,” “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.

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

- (a) The exclusions from liability specified in this section apply to the following District offenses:
  - (1) Possession of an Unregistered Firearm, Destructive Device, or Ammunition under RCC § 7-2502.01A;
  - (2) Possession of a Stun Gun under RCC § 7-2502.15;
  - (3) Carrying an Air or Spring Gun under RCC § 7-2502.17;
  - (4) Carrying a pistol in an unlawful manner under RCC § 7-2509.06A;
  - (5) Possession of a Prohibited Weapon or Accessory under RCC § 22E-4101;
  - and
  - (6) Carrying a Dangerous Weapon under RCC § 22E-4102.
- (b) Notwithstanding any other District law, an actor does not commit an offense specified in subsection (a) of this section when that actor 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 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, an actor shall not be subject to prosecution for an offense specified in subsection (a) of this section if that actor:
- (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, an actor does not commit an offense specified in subsection (a) of this section when that actor possesses or carries a firearm while participating in a firearms training and safety class conducted by a firearms instructor.
- (c) *Definitions.* The terms “actor,” “ammunition,” “firearm,” “firearms instructor,” “pistol,” and “possess” have the meanings specified in RCC § 22E-701.

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

- (a) The court shall not enter a judgment of conviction for more than one of the following District offenses based on the same act or course of conduct:
  - (1) Possession of an Unregistered Firearm, Destructive Device, or Ammunition under RCC § 7-2502.01A;
  - (2) Possession of a Stun Gun under RCC § 7-2502.15;

- (3) Carrying an Air or Spring Gun under RCC § 7-2502.17;
  - (4) Carrying a Dangerous Weapon under RCC § 22E-4102;
  - (5) Possession of a Dangerous Weapon with Intent to Commit Crime under RCC § 22E-4103; and
  - (6) Possession of a Dangerous Weapon During a Crime under RCC § 22E-4104.
- (b) The court shall not enter a judgment of conviction for more than one of the following District offenses based on the same act or course of conduct:
- (1) Possession of a Dangerous Weapon with Intent to Commit Crime under RCC § 22E-4103;
  - (2) Possession of a Dangerous Weapon During a Crime under RCC § 22E-4104; and
  - (3) Any offense 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 procedures specified in RCC § 22E-212(d)-(e).
- (d) *Definitions.* The terms “act” and “dangerous weapon” have the meaning specified in RCC § 22E-701.

#### **RCC § 22E-4120. Endangerment with a Firearm.**

- (a) *Offense.* An actor commits endangerment with a firearm when that actor:
- (1) Knowingly discharges a projectile from a firearm outside a licensed firing range; and
  - (2) Either:
    - (A) The discharged projectile creates a substantial risk of death or bodily injury to another person; or
    - (B) In fact:
      - (i) The actor or the discharged projectile is in a location that is:
        - (I) Open to the general public at the time of the offense;
        - (II) A communal area of multi-unit housing;
        - (III) A public conveyance; or
        - (IV) A rail transit station; and
      - (ii) The actor does not have permission to discharge a projectile from a firearm under:
        - (I) A written permit issued by the Metropolitan Police Department; or
        - (II) Other District or federal law.
- (b) *Penalties.* Endangerment with a firearm is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (c) *Multiple convictions for related offenses.* A conviction for an offense under this section and a conviction for another offense that has as an objective element in the offense definition or applicable penalty enhancement the use or display, or attempted use or display, of a firearm, imitation firearm, or dangerous weapon shall

merge, under RCC § 22E-214, when both convictions arise from the same course of conduct and the same complainant.

- (d) *Definitions.* The term “objective element” has the meaning specified in RCC § 22E-201; 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,” “bodily injury,” “dangerous weapon,” “firearm,” “imitation firearm,” “open to the general public,” and “public conveyance,” and “rail transit station” have the meanings specified in RCC § 22E-701.

## **Chapter 42. Breaches of Peace.**

### **RCC § 22E-4201. Disorderly Conduct.**

- (a) *Offense.* An actor commits disorderly conduct when that actor:
- (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 likely to suffer immediate criminal bodily injury, taking of property, or damage to property;
    - (B) Purposely commands, requests, or tries to persuade any person present to cause immediate criminal 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 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.
- (b) *Exclusions from liability.*
- (1) An actor does not commit an offense under subparagraph (a)(2)(A) of this section when the other person present is a law enforcement officer in the course of official duties.
  - (2) An actor does not commit an offense under 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 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 “actor,” “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.* An actor commits public nuisance when that actor purposely causes significant interruption to:
  - (1) The orderly conduct of a meeting by a District or federal public body;
  - (2) A person’s reasonable, quiet enjoyment of their dwelling, between 10:00 p.m. and 7:00 a.m., and continues or resumes the conduct after receiving oral or written notice to stop; or
  - (3) A person’s lawful use of a public conveyance; or
  - (4) A religious service, funeral, or wedding, that is, in fact, lawful and in a location that is open to the general public at the time of the offense.
- (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 “actor,” “bodily injury,” “dwelling,” “open to the general public,” “property,” 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.* An actor commits blocking a public way when that actor:
  - (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 after receiving a law enforcement officer’s order that, in fact, is lawful, to stop.
- (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 “actor,” “blocks,” and “law enforcement officer” have the meanings specified in RCC § 22E-701.

**RCC § 22E-4204. Unlawful Demonstration.**

- (a) *Offense.* An actor commits unlawful demonstration when that actor:
  - (1) Knowingly engages in a demonstration;
  - (2) In a location where the demonstration, in fact, is otherwise unlawful under District or federal law; and
  - (3) Continues or resumes engaging in the demonstration after receiving a law enforcement order to stop.
- (b) *Prosecutorial authority.* The Attorney General for the District of Columbia shall prosecute violations of this section.
- (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 “actor” and “demonstration” have 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 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” 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, in fact, that person is under 12 years of age.
  - (2) A person does not commit an offense under subsection (a) of this section when, in fact:
    - (A) The person is inside their own individual dwelling unit; and
    - (B) The conduct is not visible to any person outside the dwelling.
  - (3) A person shall not be subject to prosecution under this section when, in fact, 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 for the District of Columbia shall prosecute violations of subsection (b) 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; the term "in fact" has the meaning specified in RCC § 22E-207; and the terms "actor," "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 "sexually-oriented business establishment" has the meaning specified in 11 DCMR § 199.1.

## **Chapter 43. Group Misconduct.**

### **RCC § 22E-4301. Rioting.**

- (a) *Offense.* An actor commits rioting when that actor:
  - (1) Knowingly commits or attempts to commit a criminal 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 committing or attempting to commit a criminal bodily injury, taking of property, or damage to property, in the area reasonably perceptible to the actor.
- (b) *No attempt liability.* The general attempt provision in RCC § 22E-301 does not apply to this section.
- (c) *Penalties.* Rioting 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,” “bodily injury,” and “property” have the meanings specified in RCC § 22E-701.

#### **RCC § 22E-4302. Failure to Disperse.**

- (a) *Offense.* 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 committing or attempting to commit a criminal bodily injury, taking of property, or damage to property, in the area reasonably perceptible to the actor; and
  - (3) In fact, the actor’s presence substantially impairs the ability of a law enforcement officer to safely prevent or stop the criminal conduct.
- (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,” “law enforcement officer,” and “property” have the meaning specified in RCC § 22E-701.

### **Chapter 44. Prostitution and Related Statutes.**

#### **RCC § 22E-4401. Prostitution.**

- (a) *Offense.* An actor commits prostitution when the actor knowingly:
  - (1) Pursuant to a prior agreement, explicit or implicit, engages in or submits to a sexual act or sexual contact in exchange for the actor or a third party receiving anything of value;
  - (2) Agrees, explicitly or implicitly, to engage in or submit to a sexual act or sexual contact in exchange for the actor or a third party receiving anything of value; or

- (3) Commands, requests, or tries to persuade any person to engage in or submit to a sexual act or sexual contact in exchange for the actor or a third party receiving anything of value.

(b) *Immunity.*

- (1) An actor does not commit an offense under this section when, in fact, the actor is under 18 years of age.
- (2) The Metropolitan Police Department and any other District agency designated by the Mayor shall refer any person under 18 years of age that is suspected of violating subsection (a) of this section to an organization that provides treatment, housing, or services appropriate for victims of sex trafficking of a minor under § 22E-1605.

(c) *Suspension and dismissal of proceedings.*

- (1) When a person is found guilty of violation of RCC § 22E-4401 the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person 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 the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this subsection shall be without court adjudication of guilt. 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 RCC § 22E-606 for second or subsequent convictions or other similar provisions) or for any other purpose.
- (2) Upon the dismissal of the person and discharge of the proceedings against the person under paragraph (1) of this subsection, the person may apply to the court for an order to expunge from all official records all recordation relating to the person's arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this subsection. If the court determines, after hearing, that the person was dismissed and the proceedings against the person discharged, it shall enter such order. The effect of such order shall be to restore the person, in the contemplation of this law, to the status the person 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 the person for any purpose.

- (d) *Penalties.* Prostitution 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; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “consent,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

**RCC § 22E-4402. Patronizing prostitution.**

- (a) *Offense.* An actor commits patronizing prostitution when the actor knowingly:
- (1) Pursuant to a prior agreement, explicit or implicit, engages in or submits to a sexual act or sexual contact in exchange for the actor giving another person anything of value;
  - (2) Agrees, explicitly or implicitly, to give anything of value to another person in exchange for that person or a third party engaging in or submitting to a sexual act or sexual contact; or
  - (3) Commands, requests, or tries to persuade any person to engage in or submit to a sexual act or sexual contact in exchange for the actor giving another person anything of value.
- (b) *Suspension and dismissal of proceedings.*
- (1) When a person is found guilty of violation of RCC § 22E-4402 the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person 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 the person and discharge the person from probation before the expiration of the maximum period prescribed for the person’s probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this subsection shall be without court adjudication of guilt. 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 RCC § 22E-606 for second or subsequent convictions or other similar provisions) or for any other purpose.
  - (2) Upon the dismissal of the person and discharge of the proceedings against the person under paragraph (1) of this subsection, the person may apply to the court for an order to expunge from all official records all recordation relating to the person’s arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this subsection. If the court determines, after hearing, that the person was dismissed and the proceedings against the person discharged, it shall enter such order. The effect of such order shall be to restore the person, in the contemplation of this law, to the status the person 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 the person for any purpose.

(c) *Penalties.*

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

(2) *Penalty enhancements.* The penalty classification of this offense is increased by one class when the actor:

(A) Is reckless as to the fact that the person patronized is under 18 years of age, or, in fact, the person patronized is under 12 years of age;

or

(B) Is reckless as to the fact that the person patronized is:

(i) Incapable of appraising the nature of the sexual act or sexual contact or of understanding the right to give or withhold consent to the sexual act or 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

(ii) Incapable of communicating willingness or unwillingness to engage in the sexual act or sexual contact.

(d) *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,” “consent,” “sexual act,” and “sexual contact” have the meanings specified in RCC § 22E-701.

**RCC § 22E-4403. Trafficking in Commercial Sex.**

(a) *Offense.* An actor commits trafficking in commercial sex when the actor:

(1) With intent to receive anything of value as a result, purposely:

(A) Causes, procures, provides, recruits, or entices a person to engage in or submit to a commercial sex act with or for another person; or

(B) Provides or maintains a location for a person to engage in or submit to a commercial sex act with or for another person;

(2) Knowingly receives anything of value as a result of:

(A) Causing, procuring, providing, recruiting, or enticing a person to engage in or submit to a commercial sex act with or for another person; or

(B) Providing or maintaining a location for a person to engage in or submit to a commercial sex act with or for another person; or

(3) Obtains anything of value from the proceeds or earnings of a commercial sex act that a person has engaged in or submitted to, either without

consideration or when the consideration is providing or maintaining a location for a commercial sex act.

(b) *Penalties.*

(1) 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) *Penalty enhancements.* The penalty classification of this offense is increased by one class when:

(A) The actor is reckless as to the fact that the person trafficked is under 18 years of age, or, in fact, the person trafficked is under 12 years of age;

(B) The actor is reckless as to the fact that the person trafficked is:

(i) Incapable of appraising the nature of the commercial sex act or of understanding the right to give or withhold consent to the commercial sex 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

(ii) Incapable of communicating willingness or unwillingness to engage in the commercial sex act.

(c) *Definitions.* The terms “knowingly,” “purposely,” “intent,” and “reckless” have the meanings specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-701; and the terms “actor,” “consent,” and “commercial sex act” have the meanings specified in RCC § 22E-701.

**RCC § 22E-4404. Civil Forfeiture.**

(a) *Property subject to forfeiture.* The following are subject to civil forfeiture:

(1) In fact, all conveyances, including aircraft, vehicles or vessels, which are possessed with intent to be used, or are, in fact, used to facilitate the commission of the RCC trafficking in commercial sex offense (RCC § 22E-4403); and

(2) In fact, all money, coins, and currency which are possessed with intent to be used, or are, in fact, used, to facilitate the commission of the RCC trafficking in commercial sex offense (RCC § 22E-4403).

(b) *Requirements for forfeiture.* All seizures and forfeitures under this section shall be pursuant to the standards and procedures set forth in D.C. Law 20-278.

(c) *Definitions.* The term “intent” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the term “possess” has the meaning specified in RCC § 22E-701.

**Chapter 46. Offenses Against the Family.**

**RCC § 22E-4601. Contributing to the Delinquency of a Minor.**

- (a) *Offense.* An actor commits contributing to the delinquency of a minor when the actor:
  - (1) In fact, is 18 years of age or older and at least four years older than the complainant;
  - (2) Is reckless as to the fact that the complainant is under 18 years of age; and
  - (3) In fact, either:
    - (A) Is an accomplice to the complainant under RCC § 22E-210 for a District offense, including a violation of D.C. Code § 25-1002, or a comparable offense in another jurisdiction; or
    - (B) Engages in criminal solicitation of the complainant under RCC § 22E-302 for a District offense, including a violation of D.C. Code § 25-1002, or a comparable offense in another jurisdiction.
- (b) *Exclusion from liability.* An actor does not commit an offense under this section when, in fact, the complainant's conduct constitutes, or, if carried out, would constitute, a trespass under RCC § 22E-2601, a public nuisance under RCC § 22E-4202, blocking a public way under RCC § 22E-4203, an unlawful demonstration under RCC § 22E-4204, an attempt to commit such an offense, or a comparable offense in another jurisdiction during a demonstration.
- (c) *Relationship to minor's conduct.* An actor may be convicted of an offense under this section even though the complainant has not been arrested, prosecuted, convicted, or adjudicated delinquent for an offense.
- (d) *Affirmative defense.* It is an affirmative defense to liability under this section that the actor engages in the conduct constituting the offense:
  - (1) With the intent of safeguarding or promoting the welfare of the complainant; and
  - (2) In fact, such conduct:
    - (A) Is reasonable in manner and degree, under all the circumstances; and
    - (B) Does not create a substantial risk of, or cause, death or serious bodily injury.
- (e) *Penalties.* Contributing to the delinquency 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 "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," "complainant," "comparable offense," "demonstration," and "serious bodily injury" have the meanings specified in RCC § 22E-701.

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

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

- (a) *First degree.* An actor commits first degree possession of an unregistered firearm, destructive device, or ammunition when that actor 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;
  - (2) A destructive device; or

- (3) One or more restricted pistol bullets.
- (b) *Second degree.* An actor commits second degree possession of an unregistered firearm, destructive device, or ammunition when that actor knowingly possesses 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.
- (c) *Exclusions from liability.*
  - (1) An actor does not commit an offense under subsection (a) of this section for possession of a firearm frame, receiver, muffler, or silencer.
  - (2) An actor does not commit an offense under subsection (a) of this section for possession of a lacrimator or sternutator.
  - (3) An actor does not commit an offense under subsection (a) of this section when that actor 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 actor is traveling to or from a lawful recreational firearm-related activity outside the District; and
        - (II) The actor's possession or control of the firearm is lawful in the actor's jurisdiction of residence; and
      - (ii) The firearm is transported in accordance with the requirements specified in RCC § 22E-4109.
  - (4) An actor does not commit an offense under subsection (b) of this section when that actor is the holder of an ammunition collector's certificate effective on or before September 24, 1976.
  - (5) An actor does not commit an offense under subsection (b) this section for possession of one or more empty cartridge cases, shells, or spent bullets.
  - (6) An actor does not commit an offense under this section when that actor satisfies the 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.
- (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 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; and the terms “actor,” “ammunition,” “law enforcement officer,” and “possesses” have the meanings specified in RCC § 22E-701.
  - (2) In this section the terms “destructive device,” “firearm,” and “restricted pistol bullet” have the meaning specified in D.C. Code § 7-2501.01.
- (h) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

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

- (a) *Offense.* An actor commits possession of a stun gun when that actor 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, that is occupied by the District of Columbia;
    - (B) Is a building, building grounds, or part of a building, that is occupied by a preschool, a primary or secondary school, public recreation 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.* An actor does not commit an offense under this section, when that actor satisfies the criteria in RCC § 22E-4118.
- (c) *Affirmative defense.* It is an affirmative defense to liability under this section that, in fact:
- (1) A person lawfully in charge of the location gave effective consent to the conduct charged to constitute the offense; or
  - (2) The actor 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 its discretion, offer an administrative disposition under D.C. Code § 5-335.01 et seq. for a violation of this section.
- (f) *Definitions.* 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,” “building,” “building grounds,” “effective consent,” “possesses,” and “stun gun” have the meanings specified in RCC § 22E-701.
- (g) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

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

- (a) *Offense.* An actor commits carrying an air or spring gun when that actor:
  - (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) While outside a building; and
  - (3) The instrument or weapon is conveniently accessible and within reach.
- (b) *Exclusions from liability.*
  - (1) An actor does not commit an offense under this section if the conduct occurs:
    - (A) As part of a lawful theatrical performance, athletic contest, or educational or cultural presentation;
    - (B) In a licensed firing range; or
    - (C) With the permission of the Metropolitan Police Department.
  - (2) An actor does not commit an offense under this section if that actor:
    - (A) Is 18 years of age or older; and
    - (B) Transports the instrument or weapon while it is unloaded and securely wrapped.
  - (3) An actor does not commit an offense under this section when that actor satisfies the 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 “actor,” “building,” and “possesses” have the meanings specified in RCC § 22E-701.
- (f) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

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

- (a) *Offense.* An actor commits unlawful storage of a firearm when that actor:
  - (1) Knowingly possesses a firearm that is:
    - (A) Not conveniently accessible and within reach;
    - (B) Not in a securely locked container; and
    - (C) Not in another location that a reasonable person would believe to be secure; and
  - (2) Is negligent as to the fact that:
    - (A) A person other than the actor who is under 18 years of age is able to access the firearm without the permission of their parent or guardian; or
    - (B) A person other than the actor who is 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.* The penalty classification for an offense under subparagraph (a)(1)(A) of this section is increased by one class when, in fact, a person under 18 years of age accesses and uses the firearm to cause either:
    - (A) A criminal bodily injury; or
    - (B) A bodily injury to themselves.
- (d) *Definitions.* The term “negligently” has the meaning specified in RCC § 22E-206; and the terms “actor,” “bodily injury,” and “firearm” have the meanings specified in RCC § 22E-701.
- (e) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

**RCC § 7-2509.06A. 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;
  - (2) While outside the actor’s home or place of business;
  - (3) The pistol is conveniently accessible and within reach; and
  - (4) In addition:
    - (A) The actor possesses 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;
    - (B) The pistol is not entirely hidden from public view; or
    - (C) The pistol is not in a holster on the actor’s person in a firmly secure manner that is reasonably designed to prevent loss, theft, and accidental discharge of the pistol.
- (b) *Exclusions from liability.* A person does not commit an offense under this section when that person satisfies the 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.* The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms “actor,” “ammunition,” and “pistol” have the meanings specified in RCC § 22E-701.
- (f) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

**D.C. Code § 16-705. Jury trial; trial by court.**

- (a) Until [midnight on a date three years after enactment of the RCC], in a criminal case tried in the Superior Court:
- (1) Except as provided in paragraph (a)(2) of this section, a trial for the offense shall be by jury when:
    - (A) According to the Constitution of the United States, the defendant is entitled to a jury trial;
    - (B) The defendant is charged with an offense that is punishable by a fine or penalty of more than \$1,000, or by imprisonment for more than 90 days, or for more than six months in the case of the offense of contempt of court;
    - (C) The defendant is charged with an attempt, conspiracy, or solicitation to commit an offense specified in subparagraph (a)(1)(B) of this section;
    - (D) The defendant is charged with an offense under Chapter 12 of Title 22E in which the person who is alleged to have been subjected to the criminal offense is a “law enforcement officer” as defined in D.C. Code § 22E-701;
    - (E) The defendant is charged with a “registration offense” as defined in D.C. Code § 22-4001(8);
    - (F) The defendant is charged with an offense that, if the defendant were a non-citizen and were convicted of the offense, could result in the defendant’s deportation from the United States under federal immigration law, or denial of naturalization under federal immigration law; or
    - (G) The defendant is charged with 2 or more offenses which are punishable by a cumulative fine or penalty of more than \$1,000 or a cumulative term of imprisonment of more than 90 days; and
  - (2) A trial for the offense shall be by a single judge whose verdict shall have the same force and effect as that of a jury:
    - (A) In any case not specified in paragraphs (a)(1)(A) – (a)(1)(G) of this section; or
    - (B) In any case specified in paragraphs (a)(1)(A) – (a)(1)(G) of this section if the defendant in open court expressly waives trial by jury and requests trial by the court more than 10 days before the scheduled trial or, with the consent of the court, within 10 days of the scheduled trial.
- (b) After [midnight on a date three years after enactment of the RCC], in a criminal case tried in the Superior Court:
- (1) Except as provided in paragraph (b)(2) of this section, a trial shall be by jury when:
    - (A) According to the Constitution of the United States, the defendant is entitled to a jury trial;
    - (B) The defendant is charged with an offense that is punishable by a fine or penalty of more than \$250, or by imprisonment, or for more than six months in the case of the offense of contempt of court;

- (C) The defendant is charged with 2 or more offenses which are punishable by a cumulative fine or penalty of more than \$250; and
- (2) A trial shall be by a single judge whose verdict shall have the same force and effect as that of a jury:
  - (A) In any case not specified in paragraphs (b)(1)(A) – (b)(1)(C) of this section; or
  - (B) In any case specified in paragraphs (b)(1)(A) – (b)(1)(C) of this section if the defendant in open court expressly waives trial by jury and requests trial by the court more than 10 days before the scheduled trial or, with the consent of the court, within 10 days of the scheduled trial.
- (c) If a defendant in a criminal case is charged with 2 or more offenses and the offenses include at least one jury demandable offense and one non-jury demandable offense the trial for all offenses charged against that defendant shall be by jury unless the defendant in open court expressly waives trial by jury and requests trial by the court, in which case the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.
- (d) The jury shall consist of twelve persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than twelve. Even absent such agreement, if, due to extraordinary circumstances, the court finds it necessary to excuse a juror for just cause after the jury has retired to consider its verdict, in the discretion of the court, a valid verdict may be returned by the remaining eleven jurors.

**RCC § 16-1005A. Criminal Contempt for Violation of a Civil Protection Order.**

- (a) *Offense.* An actor commits criminal contempt for violation of a civil protection order when that actor:
  - (1) Knows they are subject to a protection order that, in fact:
    - (A) Is one of the following:
      - (i) A temporary civil protection order issued under D.C. Code § 16-1004;
      - (ii) A final civil protection order issued under D.C. Code § 16-1005; or
      - (iii) A valid foreign protection order;
    - (B) Is in writing;
    - (C) Advises the actor of the consequences for violating the order, including immediate arrest, the issuance of a warrant for the person's arrest, and the criminal penalties under this section; and
    - (D) Is sufficiently clear and specific to serve as a guide for the actor's conduct; and
  - (2) Knowingly fails to comply with the order.
- (b) *Defense.* An actor does not commit an offense under this section when, in fact, a judicial officer gives effective consent to the conduct constituting the offense.
- (c) *Jurisdiction.* An oral or written statement made by an actor located outside the District of Columbia to a person located in the District of Columbia by means of

telecommunication, mail, or any other method of communication shall be deemed to be made in the District of Columbia.

(d) *Penalties.* Criminal contempt for violation of a civil protection order 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 “knows” 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 “effective consent” have the meanings specified in RCC § 22E-701.

(2) In this section, the term “judicial officer” has the meaning specified in D.C. Code § 16-1001.

(3) In this section, the term “valid foreign protection order” has the meaning specified in D.C. Code § 16-1041.

(f) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall 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.* An actor commits the offense of first degree parental kidnapping when the actor:

(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.* An actor commits the offense of second degree parental kidnapping when the actor:

(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.* An actor commits the offense of third degree parental kidnapping when the actor:

(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.* An actor commits the offense of fourth degree parental kidnapping when the actor:
- (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 person taken, concealed, or detained is, in fact, under 16 years of age; and
  - (4) The actor is 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 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) *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 assessed by the court against any person

convicted of the violation and reimbursed to the District. Those expenses 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.

(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; and the terms “actor,” “consent,” and “effective consent” have the meaning specified in RCC § 22E-701.

(j) *Interpretation of statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code shall 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 one 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 one conviction for violating any provision of this subchapter at the time that the application for expungement is made.

#### **RCC § 23-586. Failure to Appear after Release on Citation or Bench Warrant Bond.**

(g) *First degree.* An actor commits first degree failure to appear after release on citation or bench warrant bond when that actor:



- (1) Knows they are released on a condition to appear before a judicial officer on a specified date and time either:
    - (A) By a citation that, in fact, is issued under D.C. Code § 23-584 for a felony; or
    - (B) After knowingly posting a bond that is, in fact, for a bench warrant issued from the Superior Court for the District of Columbia in a felony case; and
  - (2) Knowingly fails to make reasonable efforts to appear or remain for the hearing; and
  - (3) In fact, fails to appear or remain for the hearing.
- (h) *Second degree.* An actor commits second degree failure to appear after release on citation or bench warrant bond when that actor:
- (1) Knows they are released on a condition to appear before a judicial officer on a specified date and time either:
    - (A) By a citation that, in fact, is issued under D.C. Code § 23-584 for a felony or misdemeanor; or
    - (B) After knowingly posting a bond that is, in fact, for a bench warrant issued from the Superior Court for the District of Columbia in a felony or misdemeanor case; and
  - (2) Knowingly fails to make reasonable efforts to appear or remain for the hearing; and
  - (3) In fact, fails to appear or remain for the hearing.
- (i) *Defense.* An actor does not commit an offense under this section when, in fact, a releasing official, prosecutor, or judicial officer gives effective consent to the conduct constituting the offense.
- (j) *Penalties.*
- (1) First degree failure to appear after release on citation or bench warrant bond is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) Second degree failure to appear after release on citation or bench warrant bond is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
- (k) *Definitions.*
- (1) The term “knows” has the meaning specified in RCC § 22E-206; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor,” “effective consent,” “felony,” and “misdemeanor” have the meanings specified in RCC § 22E-701.
  - (2) In this section, the term “judicial officer” has the meaning specified in D.C. Code § 23-501.
  - (3) In this section, the term “releasing official” has the meaning specified in D.C. Code § 23-1110.
- (l) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

**RCC § 23-1327. Failure to Appear in Violation of a Court Order.**

- (a) *First degree.* An actor commits first degree failure to appear in violation of a court order when that actor:
  - (1) Knows they are required to appear before a judicial officer on a specified date and time by a court order for what is, in fact, a hearing:
    - (A) In a case in which the actor is charged with a felony; or
    - (B) In which the actor is scheduled to be sentenced; and
  - (2) Knowingly fails to make reasonable efforts to appear or remain for the hearing; and
  - (3) In fact, fails to appear or remain for the hearing.
- (b) *Second degree.* An actor commits second degree failure to appear in violation of a court order when that actor:
  - (1) Knows they are required to appear before a judicial officer on a specified date and time by a court order for what is, in fact, a hearing:
    - (A) In a case in which the actor is charged with a felony or misdemeanor; or
    - (B) In which the actor is scheduled to appear as a material witness in a criminal case; and
  - (2) Knowingly fails to make reasonable efforts to appear or remain for the hearing; and
  - (3) In fact, fails to appear or remain for the hearing.
- (c) *Defense.* An actor does not commit an offense under this section when, in fact, a judicial officer gives effective consent to the conduct constituting the offense.
- (d) *Penalties.*
  - (1) First degree failure to appear in violation of a court order is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (2) Second degree failure to appear in violation of a court order is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
  - (3) *Forfeiture.* Upon conviction under this section, the court may, subject to the provisions of the Federal Rules of Criminal Procedure, order the forfeiture of any security which was given or pledged for the actor's release.
- (e) *Definitions.*
  - (1) The term "knows" has the meaning specified in RCC § 22E-206; the term "in fact" has the meaning specified in RCC § 22E-207; and the terms "actor," "effective consent," "felony," and "misdemeanor" have the meanings specified in RCC § 22E-701.
  - (2) In this section, the term "judicial officer" has the meaning specified in D.C. Code § 23-1331.
- (f) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

#### **RCC § 23-1329A. Criminal Contempt for Violation of a Release Condition.**

- (a) *Offense.* An actor commits criminal contempt for violation of a release condition when that actor:

- (1) Knows they are subject to a conditional release order that, in fact:
  - (A) Is issued under D.C. Code § 23-1321;
  - (B) Is in writing;
  - (C) Advises the actor of the consequences for violating the order, including immediate arrest or the issuance of a warrant for the actor's arrest, the criminal penalties under this section, the pretrial release penalty enhancements under RCC § 22E-607, and the criminal penalties for obstruction of justice under D.C. Code § 22-722; and
  - (D) Is sufficiently clear and specific to serve as a guide for the actor's conduct; and
- (2) Knowingly fails to comply with the conditional release order.
- (b) *Defense.* An actor does not commit an offense under this section when, in fact, a judicial officer gives effective consent to the conduct constituting the offense.
- (c) *Prosecutorial authority.* A judicial officer or a prosecutor may initiate a proceeding for contempt under this section.
- (d) *Non-jury hearing.* A proceeding determining a violation of this section shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.
- (e) *Penalties.* Criminal contempt for violation of a release condition 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 term "knows" 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 "effective consent" have the meanings specified in RCC § 22E-701.
  - (2) In this section, the term "judicial officer" has the meaning specified in D.C. Code § 23-1331.
- (g) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

#### **RCC § 24-241.05A. Violation of Work Release.**

- (a) *Offense.* An actor commits violation of work release when that actor:
  - (1) In fact, is granted a work release privilege under D.C. Code § 24-241.02; and
  - (2) Knowingly fails to return at the time and to the place of confinement designated in their work release plan.
- (b) *Defense.* An actor does not commit an offense under this section when, in fact, a judicial officer, the Director of the Department of Corrections, or the Chairman of the United States Parole Commission gives effective consent to the conduct constituting the offense.
- (c) *Prosecutorial Authority.* The Attorney General for the District of Columbia shall prosecute violations of this section.
- (d) *Penalties.* Violation of work release 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; the term “in fact” has the meaning specified in RCC § 22E-207; and the terms “actor” and “effective consent” have the meanings specified in RCC § 22E-701.
- (2) In this section, the term “judicial officer” has the meaning specified in D.C. Code § 23-1331.
- (f) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

**D.C. Code § 24-403.03. Modification of an imposed term of imprisonment.**

- (a) Notwithstanding any other provision of law, the court shall reduce a term of imprisonment imposed upon a defendant for an offense if:
  - (1) The defendant was sentenced pursuant to § 24-403 or § 24-403.01, or was committed pursuant to § 24-903, and has served at least 15 years in prison; and
  - (2) The court finds, after considering the factors set forth in subsection (c) of this section, that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.
- (b)
  - (1) A defendant convicted as an adult of an offense may file an application for a sentence modification under this section. The application shall be in the form of a motion to reduce the sentence. The application may include affidavits or other written material. The application shall be filed with the sentencing court and a copy shall be served on the United States Attorney.
  - (2) The court may direct the parties to expand the record by submitting additional testimony, examinations, or written materials related to the motion. The court shall hold a hearing on the motion at which the defendant and the defendant's counsel shall be given an opportunity to speak on the defendant's behalf. The court may permit the parties to introduce evidence.
  - (3)
    - (A) The defendant shall be present at any hearing conducted under this section unless the defendant waives the right to be present. Any proceeding under this section may occur by video teleconferencing and the requirement of a defendant's presence is satisfied by participation in the video teleconference.
    - (B) A defendant brought back to the District for any hearing conducted under this section shall be held in the Correctional Treatment Facility.
  - (4) The court shall issue an opinion in writing stating the reasons for granting or denying the application under this section, but the court may proceed to sentencing immediately after granting the application.
- (c) The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a) of this section, shall consider:
  - (1) The defendant's age at the time of the offense;

- (2) The history and characteristics of the defendant;
  - (3) Whether the defendant has substantially complied with the rules of the institution to which he or she has been confined and whether the defendant has completed any educational, vocational, or other program, where available;
  - (4) Any report or recommendation received from the United States Attorney;
  - (5) Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;
  - (6) Any statement, provided orally or in writing, provided pursuant to § 23-1904 or 18 U.S.C. § 3771 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;
  - (7) Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;
  - (8) The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;
  - (9) The extent of the defendant's role in the offense and whether and to what extent an adult was involved in the offense;
  - (10) The diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime; and
  - (11) Any other information the court deems relevant to its decision.
- (d) If the court denies or grants only in part the defendant's 1st application under this section, a court shall entertain a 2nd application under this section no sooner than 3 years after the date that the order on the initial application becomes final. If the court denies or grants only in part the defendant's 2nd application under this section, a court shall entertain a 3rd and final application under this section no sooner than 3 years following the date that the order on the 2nd application becomes final. No court shall entertain a 4th or successive application under this section.
- (e)
- (1) Any defendant whose sentence is reduced under this section shall be resentenced pursuant to § 24-403, § 24-403.01, or § 24-903, as applicable.
  - (2) Notwithstanding any other provision of law, when resentencing a defendant under this section, the court:
    - (A) May issue a sentence less than the minimum term otherwise required by law; and
    - (B) Shall not impose a sentence of life imprisonment without the possibility of parole or release.

**RCC § 25-1001. Possession of an Open Container or Consumption of Alcohol in a Motor Vehicle.**

- (e) *Offense.* An actor commits possession of an open container or consumption of alcohol in a motor vehicle when that actor:

- (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.
- (f) *Exclusions from liability.* And actor does not commit an offense under this section when that actor is:
  - (1) Located in:
    - (A) The passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or
    - (B) The living quarters of a house coach or house trailer; and
  - (2) Not operating the motor vehicle.
- (e) *No attempt liability.* The general attempt provision in RCC § 22E-301 does not apply to this section.
- (g) *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.
- (h) *Definitions.*
  - (1) The term “knowingly” has the meaning specified in RCC § 22E-206; and the terms “actor,” “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.
- (i) *Interpretation of statute.* Chapters 1 through 6 of Subtitle I of Title 22E shall apply to this offense.

**RCC § 48-904.01a. Possession of a Controlled Substance.**

- (a) *First degree.* An actor commits first degree possession of a controlled substance when the actor:
  - (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.* An actor commits second degree possession of a controlled substance when the actor knowing possesses a measurable amount of any controlled substance.
- (c) *Exclusions from liability.* An actor does not commit an offense under this section when the actor:
  - (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 terms “consent,” “controlled substance,” and “possesses” has the meaning specified in RCC § 22E-701; and the terms “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 shall 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 the person, defer further proceedings and place the person 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 the person from probation before the expiration of the maximum period prescribed for such person’s probation. If during the period of probation the 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 the person. Discharge and dismissal under this subsection shall be without court adjudication of guilt. 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 or under RCC § 22E-606 for second or subsequent convictions) or for any other purpose.
  - (2) Upon the dismissal of the person and discharge of the proceedings against the person under paragraph (1) of this subsection, the person may apply to the court for an order to expunge from all official records 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 the person was dismissed and the proceedings against the person discharged, it shall enter such order. The effect of such order shall be to restore the person, in the contemplation of this law, to the status the person 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 the person for any purpose.

**RCC § 48-904.01b. Trafficking of a Controlled Substance.**

- (a) *First degree.* An actor commits first degree trafficking of a controlled substance when the actor:
  - (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.* An actor commits second degree trafficking of a controlled substance when the actor:
  - (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.* An actor commits third degree trafficking of a controlled substance when the actor:
- (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.* An actor commits fourth degree trafficking of a controlled substance when the actor 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.* An actor commits fifth degree trafficking of a controlled substance when the actor 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) *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) *Penalty enhancements.* The penalty classification for any gradation of this offense increases in severity by one class when the actor commits the offense:
    - (A) When the actor is, in fact, 21 years of age or older, and distributes a controlled substance to a person reckless as to the fact that the person is under 18 years of age;
    - (B) By knowingly possessing, 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;

- (C) When 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 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 18 years of age; or
- (D) When the actor commits an offense under this section when in a location that, in fact:
  - (i) Is within 300 feet of the property line of a school, college, university, public swimming pool, public playground, 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) *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 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.
- (j) *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 "distribute," "immediate precursor," "manufacture," "opium poppy," and "person," and "poppy straw" have the meanings specified in RCC § 48-901.02.
- (k) *Interpretation of statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code shall apply to this offense.

#### **RCC § 48-904.01c. Trafficking of a Counterfeit Substance.**

- (a) *First degree.* An actor commits first degree trafficking of a counterfeit substance when the actor:
  - (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.* An actor commits second degree trafficking of a counterfeit substance when the actor:
- (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.* An actor commits third degree trafficking of a counterfeit substance when the actor:
- (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.* An actor commits fourth degree trafficking of a counterfeit substance when the actor 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.* An actor commits fifth degree trafficking of a counterfeit substance when the actor 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) *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) *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) *Penalty enhancements.* In addition to any general penalty enhancements under this title, the penalty classification for any gradation of this offense increases 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.
- (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 "distribute," "immediate precursor," "manufacture," "opium poppy," and "person," and "poppy straw" have the meanings specified in RCC § 48-901.02.
- (j) *Interpretation of statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code shall apply to this offense.

#### **RCC § 48-904.10. Possession of Drug Manufacturing Paraphernalia.**

- (a) *Offense.* An actor commits possession of drug manufacturing paraphernalia when the actor knowingly possesses an object with intent to use the object to manufacture a controlled substance.
- (b) *Exclusions to liability.* An actor does not commit an offense under this section:
  - (1) If the object possessed is 50 years of age or older; or
  - (2) If the actor possesses an object with intent solely to use the object to package or repackage a controlled substance for the actor'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 terms "actor," "controlled substance," and "possesses" have the meaning specified in RCC § 22E-701; and the term "manufacture" has 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 shall apply to this offense.

#### **RCC § 48-904.11. Trafficking of Drug Paraphernalia.**

- (a) *Offense.* An actor commits trafficking of drug paraphernalia when the actor:
  - (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) *Defenses.* It is a defense to prosecution under this section when the actor:
  - (1) Is a community-based organization 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;
  - (2) 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) 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 terms “intent” and “knowingly” have the meanings specified in RCC § 22E-206; the terms “controlled substance” and “possesses” have the meanings specified in RCC § 22E-701; the term “distributes” has the meaning specified in § 48-901.02; and the term “community-based organization” has the meaning specified in D.C. Code § 7-404.
- (e) *Interpretation of statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code shall apply to this offense.

#### **RCC § 48-904.12. Maintaining Methamphetamine Production.**

- (a) *Offense.* An actor commits the offense of maintaining methamphetamine production when the actor 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; and the term “actor” has the meaning specified in RCC § 22E-701.
- (d) *Interpretation of statute.* The general provisions of Chapters 1 through 6 of Subtitle I of Title 22E of the D.C. Code shall apply to this offense.