Report #77 - Repeal of Misc. Crimes and Statutes – Property Stolen in Another Jurisdiction, 1893 Act Prosecutions, Terrorism Jurisdiction, and Case Referral

(Final Draft)

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This Report contains repeal recommendations for certain District criminal statutes. These repeal recommendations are part of the D.C. Criminal Code Reform Commission's (CCRC) efforts to issue recommendations for comprehensive reform of District criminal statutes.

This Report is comprised of the repeal commentary for four statutes.

The Report's commentary explains the reasoning behind the recommendation for repeal and addresses the ways in which the described offenses are covered by other RCC statutes.

Appendices to this report are:

- Appendix A – 1892 Legislative History for current D.C. Code § 22–1809. (No Commentary.)
- Appendix B – Disposition of Comments on Report #77 – Repeal of Misc. Crimes and Statutes (First Draft).

A copy of this document and other work by the CCRC is available on the agency website at www.ccrc.dc.gov.

Report #77 – *Repeal of Misc. Crimes and Statutes – Property Stolen in Another Jurisdiction, 1893 Act Prosecutions, Terrorism Jurisdiction, and Case Referral*

§ 22–1808. Offenses committed beyond District.
§ 22–1809. Prosecutions.
§ 22–3156. Jurisdiction. [Terrorism]
§ 22–3204. Case Referral.

D.C. Code § 22–1808. Offenses committed beyond District.

The Commission recommends repealing in its entirety D.C. Code § 22–1808. The statute is unclear, has not been prosecuted in recent decades, and has been superseded by the receiving stolen property statute in current D.C. Code § 22–3232.

Current D.C. Code § 22–1808 has no controlling District case law.[1] The statute provides that:

> Any person who by the commission outside of the District of Columbia of any act which, if committed within the District of Columbia, would be a criminal offense under the laws of said District, thereby obtains any property or other thing of value, and is afterwards found with any such property or other such thing of value in his or her possession in said District, or who brings any such property or other such thing of value into said District, shall, upon conviction, be punished in the same manner as if said act had been committed wholly within said District.

The statute was created by Congress in 1911 and, but for minor changes to some gendered pronouns, remains identical in today's D.C. Code. The 1911 legislative history indicates that the provision was codified to provide broader liability than existed at the time for a person being in the District and knowingly or intentionally possessing property that they themselves had stolen outside the District.[2] Congress noted that several other jurisdictions had recently adopted similar laws at that time.[3] The District then had two crimes addressing possession of stolen property, but both were extremely narrow and covered only knowingly "receiving" property that was stolen from the District of Columbia

[1] Note, however, that the D.C. Court of Appeals has discussed the statute in *dicta* in one case. *See Dobyns v. United States*, 30 A.3d 155, 161 (D.C. 2011) ("Dobyns also claims that if the District of Columbia Council had intended to criminalize the use of items wrongfully obtained in another jurisdiction in § 22–3211, the Council would have repealed D.C. Code § 22–1808 (2001) along with other code provisions when § 22–3211 was enacted to consolidate theft-type offenses. However, § 22–1808 is not limited to criminalizing the bringing of property obtained by theft into the District of Columbia. The statute states:
Any person who by the commission outside the District of Columbia of *any act* which, if committed within the District of Columbia, would be a criminal offense under the laws of said District, thereby obtains any property or other thing of value, and is afterwards found with any such property or other such thing of value in his or her possession in said District, or who brings any such property or other such thing of value into said District, shall, upon conviction, be punished in the same manner as if said act had been committed wholly within said District. D.C. Code § 22–1808 (2001) (emphasis added). Thus, § 22–1808 would appear to allow the prosecution of persons who bring property into the District of Columbia obtained by means other than theft, such as burglary, D.C. Code § 22–801 (2001), robbery, D.C. Code § 22–2801 (2001), and carjacking, D.C. Code § 22–2803 (2001). In fact, § 22–1808 does not require that the property brought into the District of Columbia be stolen or wrongfully obtained, so that offenses such as trademark counterfeiting, D.C. Code § 22–902 (2001), and bribery, D.C. Code § 22–712 (2001), could also be prosecuted under § 22–1808. Because the property brought into the District of Columbia under § 22–1808 need not be obtained by theft, the enactment of § 22–3211 criminalizing the use of stolen items brought into the District of Columbia would not have led the Council to repeal § 22–1808.").
[2] Representative Mann (Illinois), "District of Columbia Business." 62 Cong. Rec. 194 (1911) (statement of Representative Mann (Illinois)), "District of Columbia Business"), available *at* https://www.govinfo.gov/content/pkg/GPO-CRECB-1912-pt1-v48/pdf/GPO-CRECB-1912-pt1-v48-7.pdf.
[3] *Id*. at 192.

government or else was embezzled from any person who had a trustee relationship regarding the property.[4] Consequently, the statute codified in D.C. Code § 22–1808 was viewed as necessary to fill gaps in liability for persons other than the District government or those with a trustee relationship to the property owner.

Although unclear from the plain language of the statute, the legislative history indicates that the statute was intended to apply only to the person who originally took the property (by theft, burglary, etc.) in another state and then brought it into the District.[5] Consequently, the statute was not intended to apply broadly to any person (someone other than the initial perpetrator) who possesses property that they know to have been stolen.

The crime in D.C. Code § 22–1808 has not been charged since at least 2009, as far back as CCRC data is available.

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[4] An Act to establish a code of law for the District of Columbia, 31 Stat. 1189, 1325-26 (1901) ("SEC. 832. Receiving Stolen Property From the District of Columbia. -Whoever shall receive, conceal, or aid in concealing, or have in possession, with intent to convert to his own use, any money, property, or writing, the property of the District of Columbia, knowing the same to have been embezzled, stolen, or purloined from the District of Columbia by any other person, shall be punished by a fine not exceeding five thousand dollars, or imprisonment not exceeding five years, or both."); *id.* ("SEC. 836. Receiving With Knowledge. Every person who shall buy or in any way receive anything of value, knowing the same to have been embezzled, taken, or secreted contrary to the provisions of any of the three next preceding sections, shall be punished in the same manner and to the same extent as prescribed in said sections, respectively."); *id.* ("SEC. 837. Carriers And Innkeepers.-Any person intrusted with anything of value, to be carried for hire, or being an innkeeper and intrusted by his guest with anything of value for safe-keeping, who fraudulently converts the same to his own use, shall be deemed guilty of embezzlement and punished as provided in section eight hundred and thirty-four."); *id.* ("SEC. 838. Warehouseman, And So Forth. Any warehouseman, factor, storage, forwarding, or commission merchant, or his clerk, agent, or employee, who, with intent to defraud the owner thereof, sells, disposes of, or applies or converts to his own use any property intrusted or consigned to him, or the proceeds or profits of any sale of such property, shall be deemed guilty of embezzlement, and shall suffer imprisonment for not more than ten years."); *id.* ("SEC. 839. Mortgagor In Possession. Any mortgagor of personal property in possession of the same, who, with intent to defraud the owner of the claim secured by the mortgage, removes any of the mortgaged property out of the District, or secretes or sells the same, or converts the same to his own use, shall be deemed guilty of embezzlement, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than five years, or both.").

[5] 62 Cong. Rec. 194 (1911) (statement of Representative Mann (Illinois)), "District of Columbia Business"), available *at* https://www.govinfo.gov/content/pkg/GPO-CRECB-1912-pt1-v48/pdf/GPO-CRECB-1912-pt1-v48-7.pdf
("Mr. MANN. The act provides that the original taking must have been a crime, if committed in the District of Columbia, substantially.
Mr. PAYNE. That is all that is required?
Mr. MANN. That is all.
Mr. PAYNE. Nothing about the man bringing it into the District of Columbia knowing it had been stolen?
Mr. MANN. There is nothing about bringing it knowingly to the District, but it must have been knowingly in the first place, because otherwise it would not have been a crime.
Mr. PAYNE. It has no language regarding any criminal knowledge or intent on his part?
Mr. MANN. There is none, but he must have been the original perpetrator of the crime.").

Current D.C. Code § 22–3232,[6] receiving stolen property, and the revised possession of stolen property offense in RCCA § 22A-3501(a),[7] more clearly and expansively provide liability for the conduct described in D.C. Code § 22–1808. Both D.C. Code § 22–3232 and RCCA § 22A-3501(a) include not only the original perpetrator who illegally took the property from its rightful owner, but any person who possesses property believing it to be stolen.

[6] D.C. Code § 22–3232 ("A person commits the offense of receiving stolen property if that person buys, receives, possesses, or obtains control of stolen property, knowing or having reason to believe that the property was stolen.").
[7] RCCA § 22A–3501(a) ("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) In fact, the property has a value of $500,000 or more.")

D.C. Code § 22–1809. Prosecutions.

The Commission recommends repealing in its entirety D.C. Code § 22–1809 and codifying an additional statement at the end of the crimes in D.C. Code § 22–1310, Urging dogs to fight or create disorder and D.C. Code § 22–3311, Disorderly conduct in public buildings or grounds; injury to or destruction of United States that states: "The Attorney General for the District of Columbia shall prosecute violations of this section."

D.C. Code § 22–1809 is unclear on its face as to the legal provisions it applies to, contains an outdated reference to the Workhouse of the District of Columbia, and appears to require incarceration for any failure to pay a required fine or penalty for various minor misdemeanors. The statute is unnecessary as to many crimes because the Revised Criminal Code Act of 2021 (RCCA) repeals or more clearly specifies prosecutorial jurisdiction for these offenses, and failure to pay a reasonable fine for any offense is punishable as contempt of court under D.C. Code § 11–944. Repeal of D.C. Code § 22–1809 is not intended to change (and cannot change) any prior Congressional designation of prosecutorial jurisdiction. The codification of the abovementioned statement in D.C. Code § 22-1310 and D.C. Code § 22–3311 will clarify prosecutorial jurisdiction for those offenses.

Current D.C. Code § 22–1809 provides that:

> All prosecutions for violations of § 22-1321 or any of the provisions of any of the laws or ordinances provided for by this act shall be conducted in the name of and for the benefit of the District of Columbia, and in the same manner as provided by law for the prosecution of offenses against the laws and ordinances of the said District. Any person convicted of any violation of § 22-1321 or any of the provisions of this act, and who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the Workhouse of the District of Columbia for a term not exceeding 6 months for each and every offense. The second sentence of this section shall not apply with respect to any violation of § 22-1312(b).

The statute was created by Congress in 1892 and remains essentially identical in today's D.C. Code, except for the addition of the specific references to D.C. Code § 22–1321 (disorderly conduct) in the first and last sentences. Critically, the opaque reference in the statute to "this act" actually refers to the Act of 1892,[8] which codified 17 minor crimes (see Appendix A).

Regarding the D.C. Code § 22–1809 provision of prosecutorial authority to local District of Columbia prosecutor for disorderly conduct and the other crimes in the 1892 Act, the recommended repeal is not intended to affect prosecutorial authority. Several of

[8] *See Smith v. D.C.*, 387 F.2d 233, 235 (D.C. Cir. 1967).

the 17 crimes listed in the 1892 Act already have been repealed over the last 130 years,[9] and many of those that remain in the D.C. Code are recommended for repeal in the RCCA[10] or by a prior recommendation by the CCRC.[11] In addition, the RCCA itself directly specifies prosecutorial authority for the revised disorderly conduct (and related statutes) and indecent exposure (a crime in the Act of 1892 that would remain in effect after the RCCA) statutes.[12] The two extant crimes from the Act of 1892 that are within the scope of D.C. Code § 22–1809 do not have their prosecutorial authority addressed by the RCCA or other CCRC recommendations to date are: D.C. Code § 22-1310, Urging dogs to fight or create disorder (codifying § 10 of the Act of 1892) and D.C. Code § 22–3311, Disorderly conduct in public buildings or grounds; injury to or destruction of United States property (codifying § 15 of the Act of 1892). For these two statutes, a conforming amendment shall be made that states: "The Attorney General for the District of Columbia shall prosecute violations of this section."

Regarding the D.C. Code § 22–1809 authorization of an imprisonment for those who fail to pay fines due for crimes in the Act of 1892, the Commission recommends elimination of this provision as duplicative and unnecessary. D.C. Code § 16-706, Enforcement of judgments; commitment upon non-payment of fine, explicitly authorizes imprisonment up to one year for failure to pay a court-imposed fine.[13] Further, a purposeful

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[9] Notably, § 5 and § 8 of the Act of 1892 criminalize, respectively, cursing in public and vagrancy—crimes that impinge constitutional rights under the First and Fifth (due process) Amendments. *See, e.g., Kolender v. Lawson*, 461 U.S. 352 (1983). In addition, § 1 of the Act of 1892 concerning destroying or defacing buildings, statues, or monuments (previously D.C. Code § 22–3312) was repealed and replaced with a subsequent graffiti provision by the Council in 1982. (*See* D.C. Law 4-203.) Section 7 of the Act of 1892 concerning prostitution was repealed and replaced with a subsequent prostitution statute by Congress in 1935 that placed prosecutorial authority in the United States Attorney. Section 11 of the Act of 1892 concerning the disturbance of a congregation or place of worship (previously D.C. Code § 22–1314) was repealed and replaced with the District's disorderly conduct statute. (*See* D.C. Law 18-375, § 2(c).) Lastly, § 12 of the Act of 1892 concerning the fast riding of animals in the District "at a rate of speed exceeding eight miles per hour" appears to have been repealed at some indeterminate point in time and no longer appears in the D.C. Code.

[10] RCCA § 416 (repealing §§ 2 (current D.C. Code § 22–3313, destroying or defacing building material for streets), 4, 6, 9, 13 (current D.C. Code § 22–3310, destroying vines, bushes, shrubs, trees or protections thereof; penalty), 16 (current D.C. Code 22–1318, driving or riding on footways in public grounds), and 17 of the 1892 Act).

[11] CCRC Report #74 Report #74 – Repeal of Throwing Stones or Other Missiles, Kindling Bonfires, and Redundant Pollution Statutes (recommending repeal of D.C. Code § 22-1309, throwing stones or other missiles (corresponding to § 3 of the 1892 Act), and D.C. Code § 22-1313, kindling bonfires (corresponding to § 14 of the 1892 Act).

[12] *See* RCCA § 22A-5201(c) (disorderly conduct); § 22A-5206(d) (indecent exposure); § 22A-5204(b) (unlawful demonstration); § 22A-5203(b) (blocking a public way); and § 22A-5202(b) public nuisance.

[13] The one year maximum term of imprisonment would often be greater than the maximum term authorized by the statute under which the person was convicted. The imposition of a term of imprisonment greater than the maximum authorized by statute, however, is permitted only to compel payment of the fine and may not be used as punishment. *See Williams v. Illinois*, 399 U.S. 235, 241 (1970) ("[C]ommitment for failure to pay has not been viewed as a part of the punishment or as an increase in the penalty; rather, it has been viewed as a means of enabling the court to enforce collection of money that a convicted defendant was obligated by the sentence to pay. The additional imprisonment, it has been said, may always be avoided by payment of the fine."). Further, although the statute authorizes a term of imprisonment up to one-year, case law holds that indigent persons cannot be given a sentence of imprisonment in default of payment of a fine that exceeds

failure to comply with terms of release may constitute contempt under D.C. Code § 11–944 and, in that instance, is punishable by imprisonment notwithstanding the repeal of D.C. Code § 22–1809.

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the maximum term of imprisonment which could be imposed under the substantive statute as an original sentence. *Sawyer v. District of Columbia*, 238 A.2d 314, 318 (D.C. 1968); *Williams v. Illinois*, 399 U.S. 235, 241 (1970); *see also* RCCA § 22A-604(c) (placing limits on fines).

D.C. Code § 22–3156. Jurisdiction. [Terrorism]

The Commission recommends repealing in its entirety D.C. Code § 22–3156. The scope and effect of the statute is unclear and, to the extent it may seek to provide liability for an accomplice to District crimes of terrorism (D.C. Code §§ 22–3153 – 22-3155; RCCA §§ 22A-2701 - 22A-2704), it is unnecessary and confusing.

Current D.C. Code § 22–3156 has no controlling District case law. The statute provides that:

> There is jurisdiction to prosecute any person who participates in the commission of any offense described in this chapter if any act in furtherance of the offense occurs in the District of Columbia or where the effect of any act in furtherance of the offense occurs in the District of Columbia.

D.C. Code § 22–3156 was created by the Council in 2002 as part of the Anti-Terrorism Act of 2002,[14] and remains identical in today's D.C. Code. There is no discussion of the intended meaning or impact of the jurisdiction statute in the legislative history of bill.

The critical terms "participates" and "any act in furtherance" in D.C. Code § 22–3156 are undefined. However, the plain language of the statute requires "participation" in one of the three terrorism offenses enumerated in Chapter 31 of Title 22, as well as an "act in furtherance of the offense" or the result of such an act occurs in the District. No culpable mental state is specified in D.C. Code § 22–3156 that would require a connection between the defendant's "act in furtherance" and the terrorism crime. On its face, there appears to be jurisdiction for any level of participation, no matter how slight the act in furtherance of the crime and no matter whether the person desired to aid commission of the crime.[15]

Perhaps the most reasonable construction of D.C. Code § 22–3156 is that it is intended to clarify that there is jurisdiction to prosecute an accomplice to one of the terrorism offenses enumerated in Chapter 31 of Title 22. In the current D.C. Code accomplice liability is authorized under D.C. Code § 22-1805.[16] The current accomplice liability statute does not use the term "participates," nor does the statute specify that there be a specific "act in furtherance" of an offense. The current accomplice liability statute instead uses traditional common law language to refer to "persons advising, inciting, or conniving at the offense, or aiding or abetting" the offense. However, District case law describes the culpable mental state, conduct, and other requirements necessary for accomplice liability in broader terms that are consistent with the D.C. Code § 22–3156

[14] Omnibus Anti–Terrorism Act Of 2002, 2002 District of Columbia Laws 14-194 (Act 14–380).
[15] For example, the statute could be construed to provide jurisdiction over a person who only disregards a perceived risk (i.e., is reckless) as to the fact that their action furthers another's plan to commit a terroristic crime.
[16] D.C. Code § 22-1805. ("In prosecutions for any criminal offense all persons advising, inciting, or conniving at the offense, or aiding or abetting the principal offender, shall be charged as principals and not as accessories, the intent of this section being that as to all accessories before the fact the law heretofore applicable in cases of misdemeanor only shall apply to all crimes, whatever the punishment may be.").

references to "participation" and an "act in furtherance" of a crime.[17] Yet, while the language in D.C. Code § 22–3156 is consistent with a description of accomplice liability, the plain language differs somewhat, and there is no District case law or legislative history clearly establishing that D.C. Code § 22–3156 was intended to describe jurisdiction with respect to accomplices to terrorism crimes.

Even if D.C. Code § 22–3156 was so intended to describe jurisdiction with respect to accomplices to terrorism crimes, the statute appears to be unnecessary because under current case law any person (an accomplice or principal) already is subject to District jurisdiction when the person engages in conduct in the District or where the result of the offense occurs in the District.[18] The D.C. Court of Appeals (DCCA) has restated in a recent case that, "a crime is committed and may be tried where any 'integral component[ ]' of the offense occurs."[19] Further, the DCCA has said that: "The criminal act, the [motive] of the perpetrator, the cause, and the effect, are but parts of the complete transaction. Wherever any part is done, that becomes the locality of the crime as much as where it may have culminated."[20] While there is no District case law specifically addressing jurisdiction as to an accomplice, the extant case law on jurisdiction appears to resolve this issue and establish that there is jurisdiction when the accomplice's conduct or the result of their conduct occurs in the District.[21]

Lastly, it bears noting that maintaining D.C. Code § 22–3156, limited as it is to a few terrorism offenses, may be confusing insofar as the absence of similar provisions anywhere else in the current D.C. Code could be argued to imply that there is no accomplice

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[17] For discussion of D.C. Code § 22-1805 and case law on accomplice liability, see CCRC Commentary on Subtitle I (available at https://ccrc.dc.gov/page/recommendations).

[18] *See* D.C. Code § 11-923(b)(1) (". . . the Superior Court has jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia").

[19] *Cunningham v. D.C.*, 235 A.3d 749, 754 (D.C. 2020) (quoting *United States v. Baish*, 460 A.2d 38, at 40, 43 (D.C. 1983)). The requirement that an "integral component of the offense" occur in the District of Columbia may also be a constitutional requirement under the Sixth Amendment. *See id.* (noting that "as interpreted by this court, D.C. Code § 11-923(b)(1) is "consistent with the requirements of [A]rticle III, [S]ection 2, [C]lause 3, and the [S]ixth [A]mendment to the United States Constitution that criminal offenses be prosecuted in the state or district in which they were committed") (citing *United States v. Baish*, 460 A.2d 38, 40 (D.C. 1983)). If the reference to "any act" in D.C. Code § 22–3156 was meant to extend jurisdiction beyond the reach of D.C. Code § 11-923(b)(1) and include acts that were not "integral components of the offense", it would appear to violate the Sixth Amendment as well as D.C. Code § 1-206.02 which precludes the Council from enacting legislation with respect to the jurisdiction of District of Columbia courts.

[20] *Adair v. United States*, 391 A.2d 288, 290 (D.C. 1978) (quoting *State v. Ashe*, 182 Wash. 598, 48 P.2d 213, 215 (1935)).

[21] Notably, under the common law an accessory before the fact (accomplice) was not subject to jurisdiction where all the accessory's conduct was done outside the state in question (regardless of the effect of the accessory's conduct being within the state in question). § 4.4(a) Common law view of territorial jurisdiction, 1 Subst. Crim. L. § 4.4(a) (3d ed.). However, many jurisdictions (including the District) have departed from the common law in this respect by codifying that an accessory before the fact is punishable as a principal (as in D.C. Code § 22-1805). § 4.4(b) Statutory extensions of territorial jurisdiction, 1 Subst. Crim. L. § 4.4(b) (3d ed.). Consequently, under current District law, the language in D.C. Code § 22–3156 is unnecessary. The RCCA accomplice liability provision further departs from the common law by more clearly articulating the elements that must be proven for accomplice liability and also retaining language that: "An actor who is an accomplice to the commission of an offense by another person shall be charged and subject to punishment as a principal." RCCA § 22A-210(e).

liability for other crimes. There is no indication, however, that the legislature intended this implication.

D.C. Code § 22–3204. Case Referral.

The Commission recommends repealing in its entirety D.C. Code § 22–3204. The statute does not appear to authorize any referrals that are not already legally proper, and it is unclear why there should be referral authority only for Chapter 32 offenses. The statute is superfluous and potentially confusing.

Current D.C. Code § 22–3204 has no controlling District case law. The statute provides that:

> For the purposes of this chapter [Chapter 32 of Title 22], in cases involving more than one jurisdiction, or in cases where more than one District of Columbia agency is responsible for investigating an alleged violation, the investigating agency to which the report was initially made may refer the matter to another investigating or law enforcement agency with proper jurisdiction.

D.C. Code § 22–3204 was added in 2009 as part of the Omnibus Public Safety and Justice Amendment Act Of 2009, but there is no discussion of the provision in the Committee Report.

D.C. Code § 22–3204 applies to District of Columbia (not federal) investigating agencies and appears to only authorize a discretionary referral for those property offenses listed in Chapter 32 of Title 22 where the agency to which the case is referred has "proper jurisdiction." Yet, unless there is some other statutory provision that would bar such discretionary referrals to agencies that have "with proper jurisdiction"—and the CCRC has not identified any such statutes to date—it does not seem that § 22–3204 is doing anything more than clarifying that referrals can be made. Any clarificatory benefit of the statute is outweighed, however, by the fact that it applies only to the subset of property crimes in Title 22, Chapter 32. That limited scope seems to imply that such referrals aren't broadly authorized for all crimes even though the statute posits that the agency to which the case is referred has "proper jurisdiction."

The repeal of this statute is consistent with a policy that, whether the crime at issue is identity theft (a crime in Title 22, Chapter 32) or a violent crime or drug distribution crimes (located in other Chapters of Title 22 or other Titles), MPD and other District investigating agencies should be able to make referrals to different District or other jurisdictions' agencies if they have "proper jurisdiction."

Appendix A – 1892 Legislative History for current D.C. Code § 22–1809

control as may not for the time be required for public use and for the leasing of which there is no authority under existing law, and such leases shall be reported annually to Congress: *Provided*, That nothing in this act contained shall be held to apply to mineral or phosphate lands.

Proviso. Mineral, etc., lands excepted.

Approved, July 28, 1892.

July 28, 1892.

CHAP. 317.—An act to amend the national bank act in providing for the redemption of national bank notes stolen from or lost by banks of issue.

National currency. Redemption of lost or stolen notes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Revised Statutes of the United States, providing for the redemption of national bank notes, shall apply to all national bank notes that have been or may be issued to, or received by, any national bank, notwithstanding such notes may have been lost by or stolen from the bank and put in circulation without the signature or upon the forged signature of the president or vice-president and cashier.

Approved, July 28, 1892.

July 29, 1892.

CHAP. 320.—An act for the preservation of the public peace and the protection of property within the District of Columbia.

District of Columbia. Injury, etc., to public and private property forbidden.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any person or persons to destroy, injure, disfigure, cut, chip, break, deface, or cover, or rub with or otherwise place filth or excrement of any kind upon any property, public or private, in the District of Columbia, or any public or private building, statue, monument, office, dwelling, or structure of any kind, or which may be in course of erection, or the doors, windows, steps, railing, fencing, balconies, balustrades, stairs, porches, or halls, or the walls or sides, or the walls of any inclosure thereof; or to write, mark, or paint obscene or indecent words or language thereon, or to draw, paint, mark, or write obscene or indecent figures representing obscene or indecent objects; or to write, mark, draw, or paint any other word, sign, or figure thereon, without the consent of the owner or proprietor thereof, or, in case of public property, of the person having charge, custody, or control thereof, under a penalty of not more than fifty dollars for each and every such offense.

Penalty.

Destruction of building material, etc., forbidden.

SEC. 2. That it shall not be lawful for any person or persons to destroy, break, cut, disfigure, deface, burn, or otherwise injure any building materials, or materials intended for the improvement of any street, avenue, alley, foot pavement, roads, highways, or inclosure, whether public or private property, or remove the same (except in pursuance of law or by consent of the owner) from the place where the same may be collected for purposes of building or improvement as aforesaid; or to remove, cut, destroy, or injure any scaffolding, ladder, or other thing used in or about such building or improvement, under a penalty of not more than twenty-five dollars for each and every such offense.

Penalty.

Throwing stones, etc., forbidden.

SEC. 3. That it shall not be lawful for any person or persons within the District of Columbia to throw any stone or other missile in any street, avenue, alley, road, or highway, or open space, or public square, o. inclosure, or to throw any stone or other missile from any place into any street, avenue, road, or highway, alley, open space, public square, or inclosure, under a penalty of not more than five dollars for every such offense.

Penalty.

Flying kites, etc., forbidden.

SEC. 4. That it shall not be lawful for any person or persons to set up or fly any kite, or set up or fly any fire balloon or parachute in or upon or over any street, avenue, alley, open space, public inclosure, or square within the limits of the cities of Washington and Georgetown,

under a penalty of not more than ten dollars for each and every such offense.

Penalty.

SEC. 5. That it shall not be lawful for any person or persons to curse, swear, or make use of any profane language or any indecent or obscene words, or engage in any disorderly conduct in any street, avenue, public space, square, road, or highway, or at any railroad depot or steamboat landing within the District of Columbia, or in any place wherefrom the same may be heard in any such street, avenue, alley, public square, road, highway, or in any such depot, railroad cars, or on board any steamboat, under a penalty of not exceeding twenty dollars for each and every such offense.

Cursing, disorderly conduct, etc., forbidden.

Penalty.

SEC. 6. That it shall not be lawful for any person or persons within the District of Columbia to congregate and assemble at the corners of any of the streets or avenues, or in any street, avenue, or alley, road, or highway, or on the foot pavements or flag footways of any street or avenue, or at the entrance or on the steps, cellar doors, porches, or porticos of any public or private building or office, or at the entrance of any public or private building or office, or at the entrance, or in, on, or around any of the inclosures of the Capitol, Executive Mansion, public squares, District buildings, Judiciary square, or at the entrance of any church, schoolhouse, theater, or any assembly room, or in or around the same, or any other public or private inclosure within the said District, and be engaged in loud or boisterous talking, or to insult or make rude or obscene comments or remarks or observations on persons passing by the same, or in their hearing, or to so crowd, obstruct, or incommode the said foot pavement or flag footway, or the entrance into or out of any such church, public or private dwelling, city hall, Executive Mansion, Capitol, or such public inclosure, square or alley, highway or road, as to prevent the free and uninterrupted passage thereof, under a penalty of not more than twenty-five dollars for each and every such offense.

Boisterous assemblages, etc., forbidden.

Penalty.

SEC. 7. That it shall not be lawful for any prostitute or lewd woman to invite, entice, persuade, or to address for the purpose of inviting, enticing, or persuading any person or persons, in or upon any avenue, street, road, highway, open space, alley, public square, or inclosure in the District of Columbia, to accompany, go with, or follow her to her residence, or to any other house or building, inclosure, or other place, for the purpose of prostitution, under a penalty, if the person so invited, enticed, or persuaded, or addressed for the purpose of inviting, enticing, or persuading shall be an adult, of not more than twenty-five dollars for each and every such offense, and if the person invited, enticed, or persuaded, or addressed for the purpose of inviting, enticing, or persuading be a minor, under a penalty of no more than fifty dollars for each and every such offense. And it shall not be lawful for any prostitute or woman of lewd character to invite, entice, or persuade, or address for the purpose of inviting, enticing, or persuading any person or persons from any door, window, porch, or portico of any house or building to enter any house, or go with, accompany, or follow her to any place whatever, for the purpose of prostitution, under the like penalties herein provided for the same disorderly conduct in the streets, avenues, roads, highways, or alleys, public squares, open places or inclosures.

Enticing prostitution on the streets, etc., forbidden.

Penalty, if person addressed an adult.

If a minor.

Enticing prostitution from a house.

Penalties.

SEC. 8. That all vagrants, idle and disorderly persons, persons of evil life and fame, persons who have no visible means of support, persons who are likely to become chargeable to the District of Columbia as paupers, or drunk in or about any of the streets, avenues, alleys, roads, or highways, or public places within the District of Columbia, or loitering in or about tippling houses, all suspicious persons who have no fixed place of residence or can not give a good account of themselves, persons guilty of open profanity or grossly indecent language in or on any of the streets, avenues, alleys, public places, roads, or highways of said District; all public prostitutes, and all such persons who lead a

Vagrants, prostitutes, etc., to give bond for good behavior.

notoriously lewd or lascivious course of life, shall, upon conviction thereof before the police court of said District, be required to enter into security for their good behavior for the space of six calendar months. Said security shall be in the nature of a recognizance to the District of Columbia, to be approved by said court in a penalty not exceeding two hundred dollars, conditioned that the offender shall not, for the space of six months, repeat the offense with which he is charged, and shall in other respects conduct himself properly.

Penalty of recognizances.

Indecent exposure forbidden.

Sec. 9. That it shall not be lawful for any person or persons to make any obscene or indecent exposure of his or her person or their persons in any street, avenue, or alley, road, or highway, open space, public square, or inclosure in the District of Columbia, or to make any such obscene or indecent exposure of person in any dwelling or other building or other place wherefrom the same may be seen in any street, avenue, alley, road, or highway, open space, public square, or inclosure, under a penalty not exceeding two hundred and fifty dollars for each and every such offense.

Penalty.

Causing dogs to fight forbidden.

Sec. 10. That it shall not be lawful for any person or persons to entice, induce, urge, or cause any dogs to engage in a fight in any street, alley, road, or highway, open space, or public square in the District of Columbia, or to urge, entice, or cause such dogs to continue or prolong such fight, under a penalty of not more than five dollars for each and every offense; and any person or persons who shall induce or cause any animal of the dog kind to run after, bark at, frighten, or bite any person, horse, or horses, cows, cattle of any kind, or other animals lawfully passing along or standing in or on any street, avenue, road, or highway, or alley in the District of Columbia, shall forfeit and pay for every such offense a sum not exceeding five dollars.

Penalty.

Setting dogs on persons or animals forbidden.

Penalty.

Disturbing religious services in churches.

Sec. 11. That it shall not be lawful for any person or persons to molest or disturb any congregation engaged in any religious exercise or proceedings in any church or place of worship in the District of Columbia; and it shall be lawful for any of the authorities of said churches to arrest or cause to be arrested any person or persons so offending, and take him, her, or them to the nearest police station, to be there held for trial; and any person or persons violating the provisions of this section shall forfeit and pay a fine of not more than one hundred dollars for every such offense.

Arrests.

Penalty.

Fast riding and driving forbidden.

Sec. 12. That it shall not be lawful for any person or persons to ride or drive any animal of the horse kind in or on any street, avenue, or alley of the cities of Washington or Georgetown at a rate of speed exceeding eight miles per hour, nor cause any such animal to turn any corner within the said cities at a rate of speed exceeding four miles per hour, nor to ride or drive any such animal in or on any road or highway in that part of the District of Columbia lying outside of said cities at a rate of speed exceeding twelve miles per hour. Any person violating any of the provisions of this act shall forfeit and pay a fine or penalty of not more than twenty-five dollars for each and every such offense.

Penalty.

Injuring trees, etc., forbidden.

Sec. 13. That it shall not be lawful for any person or persons to girdle, break, wound, destroy, or in any manner injure any of the trees now growing or planted and set, or which may hereafter be planted and set on any of the public grounds, open spaces, or squares or on any private lot, or on any of the streets, or avenues, roads or highways, in the District of Columbia, or any of the boxes, stakes, or any other protection thereof, under a penalty of not exceeding fifty dollars for each and every such offense; and if any person or persons shall tie or in any manner fasten a horse or horses to any of the trees, boxes, or other protection thereof on any streets or avenues, roads or highways, on any of the public grounds belonging to the United States, or on any of the streets, avenues, or alleys, in the District of Columbia, each and every such offender shall forfeit and pay for each offense a sum not exceeding ten dollars.

Penalty.

Fastening horses to trees, etc., forbidden.

Penalty.

Kindling bonfires forbidden.

SEC. 14. That it shall not be lawful for any person or persons within the limits of the District of Columbia to kindle or set on fire, or be present, aiding, consenting, or causing it to be done, in any street, avenue, road, or highway, alley, open ground, or lot, any box, barrel, straw, shavings, or other combustible, between the setting and rising of the sun; and, any person offending against the provisions of this act shall on conviction thereof, forfeit and pay a sum not exceeding ten dollars for each and every offense.

Penalty.

Laws, etc., for protecting property extended to public buildings and grounds.

SEC. 15. That the provisions of the several laws and regulations within the District of Columbia for the protection of public or private property and the preservation of peace and order be, and the same are hereby, extended to all public buildings and public grounds belonging to the United States within the District of Columbia. And any person guilty of disorderly and unlawful conduct in or about the same, or who shall willfully injure the buildings or shrubs, or shall pull down, impair, or otherwise injure any fence, wall, or other inclosure, or shall injure any sink, culvert, pipe, hydrant, cistern, lamp, or bridge, or shall remove any stone, gravel, sand, or other property of the United States, or any other part of the public grounds or lots belonging to the United States in the District of Columbia, shall, upon conviction thereof, be fined not more than fifty dollars.

Disorderly conduct, etc., in public buildings and grounds.

Penalty.

Driving or riding on footways in public grounds forbidden.

SEC. 16. That if any person shall drive or lead any horse, mule, or other animal, or any cart, wagon, or other carriage whatever on any of the paved or graveled footways now made or which may hereafter be made in and on any of the aforesaid public grounds, or shall ride thereon, except at the intersection of streets, alleys, and avenues, each and every such offender shall forfeit and pay for each offense a sum not less than one nor more than five dollars.

Playing games of ball in streets, etc., forbidden.

SEC. 17. That it shall not be lawful for any person or persons to play the game of football, or any other game with a ball, in any of the streets, avenues, or alleys in the cities of Washington and Georgetown; nor shall it be lawful for any person or persons to play the game of bandy, shindy, or any other game by which a ball, stone, or other substance is struck or propelled by any stick, cane, or other substance in any street, avenue, or alley in the cities of Washington and Georgetown, under a penalty of not more than five dollars for each and every such offense.

Penalty.

Prosecutions in name and benefit of the District.

SEC. 18. That all prosecutions for violations of any of the provisions of any of the laws or ordinances provided for by this act shall be conducted in the name of and for the benefit of the District of Columbia, and in the same manner as now provided by law for the prosecution of offenses against the laws and ordinances of the said District. Any person convicted of any violation of any of the provisions of this act, and who shall fail to pay the fine or penalty imposed, or to give security where the same is required, shall be committed to the workhouse in the District of Columbia for a term not exceeding six months for each and every offense.

Committal on failure to pay fine.

Repeal.

SEC. 19. That all laws or ordinances, or parts of laws or ordinances, now in force in the District of Columbia inconsistent with the provisions of this act, or any part thereof, are hereby repealed.

Approved, July 29, 1892.

July 29, 1892.

CHAP. 321.—An act to provide for semi-annual statements by foreign corporations doing business in the District of Columbia.

District of Columbia. Foreign corporations to publish semi-annual statements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any insurance company, building association or company, banking company, savings institution, or other company or association advertising for or receiving premiums, deposits, or dues for membership, incorporated under the laws of any other State, Territory, or foreign government, and transacting

Appendix B – Disposition of Comments on Report #77 – Repeal of Misc. Crimes and Statutes (First Draft).

OAG written comments received March 4, 2022:

1. OAG, on page 2, recommends against the repeal of D.C. Code § 22–3204. OAG notes that the statute derived from a Mayoral bill and that OAG communications with the mayor during the development of the bill included a one-paragraph "rationale." OAG now says that its current recommendation to retain D.C. Code § 22–3204 is based on that prior rationale, without further comment. The prior rationale stated that in some cases where identity theft occurs: "MPD does not have the resources to gather the evidence necessary for arrest and prosecution. This provision would not interfere with a resident's right to file a report with the MPD for insurance or other purposes, but would permit the MPD to refer the report to another agency within the D.C. government (e.g., the Department of Insurance, Securities, and Banking), or an appropriate enforcement agency in another state)."
    - The CCRC does not adopt this recommendation because, as noted in the commentary, a statute clarifying the ability to make referrals *only* for identity theft (or other crimes in Chapter 32) seems to imply that such referrals aren't broadly authorized for all crimes even though the statute posits that the agency to which the case is referred has "proper jurisdiction." The Mayoral rationale referred to by OAG does not address the confusing narrowness of D.C. Code § 22–3204. As stated in the commentary: "The repeal of this statute is consistent with a policy that, whether the crime at issue is identity theft (a crime in Title 22, Chapter 32) or a violent crime or drug distribution crimes (located in other Chapters of Title 22 or other Titles), MPD and other District investigating agencies should be able to make referrals to different District or other jurisdictions' agencies if they have "proper jurisdiction.'"