

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 16.
PARTICULAR ACTIONS, PROCEEDINGS
AND MATTERS.

CHAPTER 23.
FAMILY DIVISION PROCEEDINGS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 23. FAMILY DIVISION PROCEEDINGS.

TABLE OF CONTENTS

Subchapter I. Proceedings Regarding Delinquency, Neglect, or Need of Supervision.

- § 16-2301. Definitions.
- § 16-2301.01. References deemed to refer to Family Court of the Superior Court.
- § 16-2301.02. Purpose.
- § 16-2302. Transfer of criminal matters to Family Division.
- § 16-2303. Retention of jurisdiction.
- § 16-2304. Right to counsel; party status.
- § 16-2305. Petition; contents; amendment.
- § 16-2305.01. Findings.
- § 16-2305.02. Preliminary probation conferences; adjustment process.
- § 16-2306. Service of summons and petition.
- § 16-2307. Transfer for criminal prosecution.
- § 16-2308. Initial appearance.
- § 16-2309. Taking into custody.
- § 16-2310. Criteria for detaining children.
- § 16-2310.01. Separation of young children detained prior to a hearing.
- § 16-2311. Release or delivery to Family Division.
- § 16-2311.01. Rules.
- § 16-2312. Detention or shelter care hearing; intermediate disposition.
- § 16-2312a. Evaluation of family team meetings and 72-hour time period for commencement of shelter care hearing.
- § 16-2313. Place of detention or shelter.
- § 16-2314. Consent decree.
- § 16-2315. Physical and mental examinations.
- § 16-2316. Conduct of hearings; evidence.
- § 16-2316.01. Scheduling of fact finding and dispositional hearings for children alleged to be neglected.
- § 16-2317. Hearings, findings; dismissal.
- § 16-2318. Order of adjudication noncriminal.
- § 16-2319. Predisposition study and report.
- § 16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.
- § 16-2320.01. Restitution.
- § 16-2321. Disposition of child with mental illness or a substantial intellectual disability.
- § 16-2322. Limitation of time on dispositional orders.
- § 16-2323. Review of dispositional orders.
- § 16-2324. Vacation, termination of orders.
- § 16-2325. Support of committed child.
- § 16-2325.01. Participation order.
- § 16-2325.02. Report on failure of respondents to appear in delinquency cases.
- § 16-2326. Court costs and expenses.

- § 16-2326.01. Compensation of attorneys in neglect and termination of parental rights proceedings.
- § 16-2327. Probation revocation; disposition.
- § 16-2328. Interlocutory appeals.
- § 16-2329. Finality of judgments; appeals; transcripts.
- § 16-2330. Time computation.
- § 16-2331. Juvenile case records; confidentiality; inspection and disclosure.
- § 16-2332. Juvenile social records; confidentiality; inspection and disclosure.
- § 16-2333. Police and other law enforcement records.
- § 16-2333.01. Permitted disclosures of juvenile information.
- § 16-2333.02. Juvenile Abscondence Review Committee.
- § 16-2334. Fingerprint records.
- § 16-2335. Sealing of records.
- § 16-2335.01. Motion to vacate adjudication or grant a new factfinding hearing on the ground of actual innocence.
- § 16-2335.02. Sealing of records on ground of actual innocence.
- § 16-2336. Unlawful disclosure of records; penalties.
- § 16-2337. Additional powers of the Director of Social Services.
- § 16-2338. Emergency medical treatment.
- § 16-2339. Immunity for juveniles who are witnesses in juvenile proceedings.
- § 16-2340. Rights of victims or eyewitnesses in delinquency proceedings.

Subchapter II. Parentage Proceedings.

- § 16-2341. Representation.
- § 16-2342. Who may bring a complaint; time.
- § 16-2342.01. Voluntary acknowledgement of paternity.
- § 16-2343. Tests to establish parentage.
- § 16-2343.01. Admissibility of tests.
- § 16-2343.02. Sanctions.
- § 16-2343.03. Default order.
- § 16-2343.04. No right to jury trial.
- § 16-2344. Exclusion of public.
- § 16-2345. New birth record upon marriage or determination of parents.
- § 16-2346. Certificate to Registrar.
- § 16-2347. Death of respondent; liability of estate.
- § 16-2348. Parentage records; confidentiality; inspection and disclosure.
- § 16-2349. Inclusion of social security numbers in parentage records.
- § 16-2349.01. Child support pendente lite.

Subchapter III. Proceedings Regarding the Termination of Parental Rights of Certain Neglected Children.

- § 16-2351. Purpose of the subchapter; construction of provisions.
- § 16-2352. Definitions.
- § 16-2353. Grounds for termination of parent and child relationship.
- § 16-2354. Motions.
- § 16-2355. Consideration of termination of the parent and child relationship at review hearings.
- § 16-2356. Parties.
- § 16-2357. Notice.
- § 16-2358. Conduct of hearings.
- § 16-2359. Adjudicatory hearing.
- § 16-2360. Disposition after termination.

- § 16-2361. Effect of termination decree.
- § 16-2362. Decrees.
- § 16-2363. Confidentiality of records.
- § 16-2364. Unlawful disclosure.
- § 16-2365. Termination decrees of other jurisdictions.

Subchapter IV. Court-Appointed Special Advocates.

- § 16-2371. Definitions.
- § 16-2372. Court-appointed special advocate program.

Subchapter V. Permanent Guardianship.

- § 16-2381. Purpose of the subchapter; construction of provisions.
- § 16-2382. Definitions.
- § 16-2383. Grounds for the creation of a permanent guardianship.
- § 16-2384. Motions.
- § 16-2385. Parties.
- § 16-2386. Notice.
- § 16-2387. Conduct of hearings.
- § 16-2388. Adjudicatory hearings.
- § 16-2389. Effect of guardianship order.
- § 16-2390. Jurisdiction.
- § 16-2391. Relocation.
- § 16-2392. Guardianship order; finality; appeals; transcripts.
- § 16-2393. Confidentiality of records.
- § 16-2394. Unlawful disclosure.
- § 16-2395. Modification, termination, or enforcement of the guardianship order.
- § 16-2396. Support.
- § 16-2397. Interlocutory order of guardianship.
- § 16-2398. Successor guardian.
- § 16-2399. Permanent guardianship subsidy.

CHAPTER 23. FAMILY DIVISION PROCEEDINGS.

SUBCHAPTER I. PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION.

§ 16-2301. DEFINITIONS.

As used in this subchapter-

(1) The term "Division" means the Family Division of the Superior Court of the District of Columbia. Pursuant to section 16-2301.01, the term "Division" shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia.

(1A) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(2) The term "judge" means a judge assigned to the Family Division of the Superior Court.

(3) The term "child" means an individual who is under 18 years of age, except that the term "child" does not include an individual who is sixteen years of age or older and-

(A) charged by the United States attorney with (i) murder, first degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;

(B) charged with an offense referred to in subparagraph (A)(i) and convicted by plea or verdict of a lesser included offense; or

(C) charged with a traffic offense.

For purposes of this subchapter the term "child" also includes a person under the age of twenty-one who is charged with an offense referred to in subparagraph (A)(i) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.

(4) The term "minor" means an individual who is under the age of twenty-one years.

(5) The term "adult" means an individual who is twenty-one years of age or older.

(6) The term "delinquent child" means a child who has committed a delinquent act and is in need of care or rehabilitation.

(7) The term "delinquent act" means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

(8) The term "child in need of supervision" means a child who-

(A)(i) subject to compulsory school attendance and habitually truant from school without justification;

(ii) has committed an offense committable only by children; or

(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

(B) is in need of care or rehabilitation.

(9)(A) The term "neglected child" means a child:

(i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child. For the purposes of this sub-subparagraph, the term "reasonable efforts" includes filing a petition for civil protection from intrafamily violence pursuant to section 16-1003;

(ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or custodian;

(iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care;

(v) who is in imminent danger of being abused and another child living in the same household or under the care of the same parent, guardian, or custodian has been abused;

(vi) who has received negligent treatment or maltreatment from his or her parent, guardian, or custodian;

(vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

(viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth;

(ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or

(x) who is regularly exposed to illegal drug-related activity in the home.

(B) No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this subchapter.

(C) Subparagraph (A)(viii), (ix), and (x) of this paragraph shall apply as of October 1, 2003.

(10) Repealed.

(11) Repealed.

(12) The term "custodian" means a person or agency, other than a parent or legal guardian:

(A) to whom the legal custody of a child has been granted by the order of a court;

(B) who is acting in loco parentis; or

(C) who is a day care provider or an employee of a residential facility, in the case of the placement of an abused or neglected child.

(13) The term "detention" means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

(14) The term "shelter care" means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

(15) The term "detention or shelter care hearing" means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

(16) The term "factfinding hearing" means a hearing to determine whether the allegations of a petition are true.

(17) The term "dispositional hearing" means a hearing, after a finding of fact, to determine-

(A) whether the child in a delinquency or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

(B) what order of disposition should be made in a neglect case.

(18) The term "probation" means a legal status created by Division order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appropriate supervision and return to the Division for violation of probation at any time during the period of probation.

(19) The term "protective supervision" means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

(20) The term "guardianship of the person of a minor" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern

with his general welfare. It includes (but is not limited to)-

- (A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;
- (B) the authority and duty of reasonable visitation (except as limited by Division order);
- (C) the rights and responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and
- (D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

(21) The term "legal custody" means a legal status created by Division order which vests in a custodian the responsibility for the custody of a minor which includes-

- (A) physical custody and the determination of where and with whom the minor shall live;
- (B) the right and duty to protect, train, and discipline the minor; and
- (C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care. A Division order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(22) The term "residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

(23)(A) The term "abused", when used with reference to a child, means:

- (i) infliction of physical or mental injury upon a child;
- (ii) sexual abuse or exploitation of a child; or
- (iii) negligent treatment or maltreatment of a child.

(B)(i) The term "abused", when used with reference to a child, does not include discipline administered by a parent, guardian or custodian to his or her child; provided, that the discipline is reasonable in manner and moderate in degree and otherwise does not constitute cruelty. For the purposes of this paragraph, the term "discipline" does not include:

- (I) burning, biting, or cutting a child;
- (II) striking a child with a closed fist;
- (III) inflicting injury to a child by shaking, kicking, or throwing the child;
- (IV) nonaccidental injury to a child under the age of 18 months;
- (V) interfering with a child's breathing; and
- (VI) threatening a child with a dangerous weapon or using such a weapon on a child. For purposes of this provision, the term "dangerous weapon" means a firearm, a knife, or any of the prohibited weapons described in section 22- 4514.

(ii) The list in sub-subparagraph (i) of this subparagraph is illustrative of unacceptable discipline and is not intended to be exclusive or exhaustive.

(24) The term "negligent treatment" or "maltreatment" means failure to provide adequate food, clothing, shelter, or medical care, which includes medical neglect, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or other custodian.

(25) The term "sexual exploitation" means a parent, guardian, or other custodian allows a child to engage in prostitution as defined in section 2(1) of the Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981, effective December 10, 1981 (D.C. Law 4-57; § 22-2701.01), or means a parent, guardian, or other custodian engages a child or allows a child to engage in obscene or pornographic photography, filming, or other forms of illustrating or promoting sexual conduct as defined in section 2(5) of the District of Columbia Protection of Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; § 22-3101(5)).

(26) The term "parenting classes" means any program which enhances the parenting skills of individuals through providing role models, discussion, training in early childhood development and child psychology, or other instruction designed to strengthen the parent, guardian, or custodian's ability to nurture children.

(27) The term "family counseling" means any psychological or psychiatric or other social service offered by a provider to the parent and 1 or more members of the extended family or the child's guardian or other caretaker of a child who has been adjudicated neglected, delinquent, or in need of supervision. A caretaker is an adult person in whose care a minor has been entrusted by written

authorization of the child's parent, guardian, or legal custodian.

(28) The term "entry into foster care" means the earlier of:

- (A) The date of the first judicial finding that the child has been neglected; or
- (B) The date that is 60 days after the date on which the child is removed from the home.

(29) The term "Agency" means the Child and Family Services Agency established by section 6-2121.01.

(30) The term "physical injury" means bodily harm greater than transient pain or minor temporary marks.

(31) The term "mental injury" means harm to a child'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.

(32) The term "sexual abuse" means:

- (A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;
- (B) causing or attempting to cause a child to engage in sexually explicit conduct; or
- (C) exposing a child to sexually explicit conduct.

(33) The term "sexually explicit conduct" means actual or simulated:

- (A) sexual act;
- (B) sexual contact;
- (C) bestiality;
- (D) masturbation; or
- (E) lascivious exhibition of the genitals, anus, or pubic area.

(34) The term "sexual act" shall have the same meaning as provided in section 101(8) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(8)).

(35) The term "sexual contact" shall have the same meaning as provided in section 101(9) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(9)).

(36) The term "controlled substance" means a drug or chemical substance, or immediate precursor, as set forth in Schedules I through V of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), which has not been prescribed by a physician.

(37) The term "drug-related activity" means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription.

(38) The term "incompetent to proceed" means that a child alleged to be delinquent is not competent to participate in a hearing on the petition pursuant to section 16-2316(a) or any other hearing in a delinquency proceeding, except scheduling, status, and competency hearings, because he or she does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding or does not have a rational, as well as a factual, understanding of the proceedings against him or her.

(39) The term "psychiatrist" means a physician who is licensed to practice medicine in the District of Columbia, or is employed by the federal government, and has completed a residency in psychiatry.

(40) The term "qualified psychologist" means a person who is licensed pursuant to section 3-1205.01, and has one year of formal training within a hospital setting, or 2 years of supervised clinical experience in an organized health care setting, one of which must be post-doctoral.

(41)(A) The term "victim" means any person, organization, partnership, business, corporation, agency or governmental entity:

- (i) against whom a crime, delinquent act, or an attempted crime or delinquent act has been committed;
- (ii) who suffers any physical or mental injury as a result of a crime, delinquent act, or an attempted crime or delinquent act;
- (iii) who may have been exposed to the HIV/AIDS virus as a result of a crime, delinquent act, or an attempted crime or delinquent act; or
- (iv) who suffers any loss of property, including pecuniary loss, as a result of a crime, delinquent act, or an attempted crime or delinquent act.

(B) The term "victim" shall not include any person who committed or aided or abetted in the commission of the crime, delinquent act, or attempted crime or delinquent act.

(42) The term "immediate family member" means:

(A) the person's parent, brother, sister, grandparent, or child, and the spouse of any such parent, brother, sister, grandparent, or child;

(B) any person who maintains or has maintained a romantic relationship, not necessarily including a sexual relationship, with the person; or

(C) any person who has a child in common with the person.

(43) The term "weapons offense" means any violation of any law, rule, or regulation which involves the sale, purchase, transfer in any manner, receipt, acquisition, possession, having under control, use, repair, manufacture, carrying, or transportation of any firearm, ammunition, or destructive device as these terms are defined in section 7-2501.01.

(44) The term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(45) The term "Superior Court" means the Superior Court of the District of Columbia.

(Dec. 23, 1963, 77 Stat. 586, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 523, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(a), 24 DCR 3341; Mar. 12, 1986, D.C. Law 6-90, § 2, 33 DCR 307; Mar. 15, 1990, D.C. Law 8-87, § 4(a), 37 DCR 50; June 8, 1990, D.C. Law 8-134, § 2(a), 37 DCR 2613; Mar. 6, 1991, D.C. Law 8-200, § 2, 37 DCR 7334; Mar. 16, 1995, D.C. Law 10-227, § 3(a), 42 DCR 4; May 23, 1995, D.C. Law 10-257, § 401(e), 42 DCR 53; Apr. 18, 1996, D.C. Law 11-110, § 65, 43 DCR 530; Mar. 24, 1998, D.C. Law 12-81, § 10(u), 45 DCR 745; June 27, 2000, D.C. Law 13-136, § 301(a)(1), 47 DCR 2850; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(1), 48 DCR 2043; Oct. 19, 2002, D.C. Law 14-206, § 3(a), 49 DCR 7815; Mar. 13, 2004, D.C. Law 15-105, § 55, 51 DCR 881; Mar. 17, 2005, D.C. Law 15-261, § 202(a), 52 DCR 1188; Mar. 14, 2007, D.C. Law 16-274, § 2(a), 54 DCR 864; Sept. 12, 2008, D.C. Law 17-231, § 20(g), 55 DCR 6758; Mar. 8, 2011, D.C. Law 18-284, § 3(b), 57 DCR 10477; Sept. 26, 2012, D.C. Law 19-169, § 20(c)(2), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2301.

1973 Ed., § 16-2301.

Effect of Amendments

D.C. Law 13-136 added par. (28).

D.C. Law 13-277 added par. (29).

D.C. Law 14-206 rewrote pars. (9) and (23); and added pars. (30) through (37). Pars. (9) and (23) had read as follows:

"(9) The term 'neglected child' means a child:

"(A) who has been abandoned or abused by his or her parent, guardian, or other custodian; or

"(B) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or other custodian; or

"(C) whose parent, guardian, or other custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

"(D) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control or subsistence and the person or institution which is providing for the child states an intention to discontinue such care; or

"(E) who is in imminent danger of being abused and whose sibling has been abused; or

"(F) who has received negligent treatment or maltreatment from his or her parent, guardian, or other custodian. No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this subchapter; and

"(G) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child. No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be

considered a neglected child for the purposes of this subchapter.

"(23) The term 'abused', when used with reference to a child, means a child whose parent, guardian, or custodian inflicts or fails to make reasonable efforts to prevent the infliction of physical or mental injury upon the child, including excessive corporal punishment, an act of sexual abuse, molestation, or exploitation, or an injury that results from exposure to drug-related activity in the child's home environment."

D.C. Law 15-105, in par. (9)(B), validated a previously made technical correction.

D.C. Law 15-261 added pars. (38) to (42).

D.C. Law 16-274, in par. (1), at the end of the paragraph, added "Pursuant to section 16-2301.01, the term 'Division' shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia."; and added pars. (1A) and (43), defining "Family Court" and "weapons offense", respectively.

D.C. Law 17-231 added par. (44).

D.C. Law 18-284 added par. (45).

D.C. Law 19-169 repealed pars. (10) and (11), which formerly read:

"(10) The term 'mentally ill child' means a child who is mentally ill within the meaning of section 21-501.

"(11) The term 'substantially retarded child' means a child who is substantially retarded within the meaning of section 21-1101 et seq."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 301(a) of Adoption and Safe Families Temporary Amendment Act of 1999 (D.C. Law 13-56, March 7, 2000, law notification 47 DCR 1978).

Emergency Act Amendments

For temporary amendment of section, see § 2 of the District of Columbia Public School Firearm Prohibition Emergency Act of 1989 (D.C. Act 8-4, March 7, 1989, 36 DCR 1906).

For temporary amendment of section, see § 4 of the Prevention of Child Neglect Emergency Amendment Act of 1993 (D.C. Act 10-100, August 9, 1993, 40 DCR 6141).

For temporary amendment of section, see § 4 of the Prevention of Child Neglect Emergency Amendment Act of 1994 (D.C. Act 10-288, July 22, 1994, 41 DCR 4992).

For temporary (90-day) amendment of section, see § 301(a) of the Adoption and Safe Families Emergency Amendment Act of 1999 (D.C. Act 13-117, July 28, 1999, 46 DCR 6558).

For temporary (90-day) amendment of section, see § 301(a) of the Adoption and Safe Families Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13- 178, November 2, 1999, 46 DCR 9714).

For temporary (90-day) amendment of section, see § 301(a) of the Adoption and Safe Families Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-240, January 11, 2000, 47 DCR 556).

For temporary (90 day) amendment of section, see § 201(a) of Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006 (D.C. Act 16-446, July 21, 2006, 53 DCR 6477).

For temporary (90 day) amendment of section, see § 301(a) of Crime Reduction Initiative Emergency Amendment Act of 2006 (D.C. Act 16-491, October 19, 2006, 53 DCR 8818).

For temporary (90 day) amendment of section, see § 201(a) of Crime Reduction Initiative Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-9, January 16, 2007, 54 DCR 1471).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 4-1321.01.

Law 6-90 was introduced in council and assigned Bill No. 6-104, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 19, 1985, and December 3, 1985, respectively. Signed by the Mayor on December 30, 1985, it was assigned Act No. 6-118 and transmitted to both Houses of Congress for its review.

Law 8-1, the "District of Columbia Public School Firearm Prohibition Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-130. The Bill was adopted on first and second readings on February 14, 1989, and February 28, 1989, respectively. Signed by the Mayor on March 21, 1989, it was assigned Act No. 8-8 and transmitted to both Houses of Congress for its review. D.C. Law 8-1 became effective on May 16, 1989.

Law 8-87, the "Protection of Children from Exposure to Drug-related Activity Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-139, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 21, 1989, and December 5, 1989, respectively. Signed by the Mayor on December 21, 1989, it was assigned Act No. 8-137 and transmitted to both Houses of Congress for its review.

Law 8-134, the "Infant and Child Abandonment Prevention Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-404, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 13, 1990, and March 27, 1990, respectively. Signed by the Mayor on April 13, 1990, it was assigned Act No. 8-190 and transmitted to both Houses of Congress for its review.

Law 8-200, the "Child Abuse and Neglect Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-81, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 9, 1990, and October 23, 1990, respectively. Signed by the Mayor on November 8, 1990, it was assigned Act No. 8-263 and transmitted to both Houses of Congress for its review.

D.C. Law 10-61, the "Prevention of Child Neglect Temporary Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-374. The Bill was adopted on first and second readings on July 21, 1993, and September 21, 1993, respectively. Signed by the Mayor on October 1, 1993, it was assigned Act No. 10-114 and transmitted to both Houses of Congress for its review. D.C. Law 10-61 became effective on November 20, 1993.

Law 10-227, the "Parental Responsibility Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-634, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-368 and transmitted to both Houses of Congress for its review. D.C. Law 10-227 became effective on March 16, 1995.

Law 10-257, the "Anti-Sexual Abuse Act of 1994," was introduced in Council and assigned Bill No. 10-87, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-385 and transmitted to both Houses of Congress for its review. D.C. Law 10-257 became effective May 23, 1995.

Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Law 13-136, the "Adoption and Safe Families Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-214, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on February 1, 2000, and March 7, 2000, respectively. Signed by the Mayor on March 31, 2000, it was assigned Act No. 13-315 and transmitted to both Houses of Congress for its review. D.C. Law 13-136 became effective on June 27, 2000.

Law 13-277, the "Child and Family Services Agency Establishment Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-796, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 24, 2001, it was assigned Act No. 13-590 and transmitted to both Houses of Congress for its review. D.C. Law 13-277 became effective on April 4, 2001.

Law 14-206, the "Improved Child Abuse Investigations Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-372, which was referred to Committee on the Judiciary and the Committee on Human Services. The Bill was adopted on first and second readings on June 18, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 23, 2002, it was assigned Act No. 14-440 and transmitted to both Houses of Congress for its review. D.C. Law 14-206 became effective on October 19, 2002.

For Law 15-105, see notes following § 16-1005.

Law 15-261, the "Omnibus Juvenile Justice Act of 2004", was introduced in Council and assigned Bill No. 15-537, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-637 and transmitted to both Houses of Congress for its review. D.C. Law 15-261 became effective on March 17, 2005.

Law 16-274, the "Mandatory Juvenile Public Safety Notification Act of 2006", was introduced in Council and assigned Bill No. 16-732, which was referred to Committee on Judiciary. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-630 and transmitted to both Houses of Congress for its review. D.C. Law 16-274 became effective on March 14, 2007.

For Law 17-231, see notes following § 16-904.

For history of Law 18-284, see notes under § 16-2301.

For history of Law 19-169, see notes under § 16-1054.

Miscellaneous Notes

Prompt Payment of Appointed Counsel. Section 129 of Pub. L. 107-96, Dec. 21, 2001, 115 Stat. 953, provides:

"(a) ASSESSMENT OF INTEREST FOR DELAYED PAYMENTS -- If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45- day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

"(b) PAYMENTS DESCRIBED. -- A payment described in this subsection is --

"(1) a payment authorized under section 11-2604 and section 11-2605, D.C. Code (relating to representation provided under the District of Columbia Criminal Justice Act);

"(2) a payment for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code; or

"(3) a payment for counsel authorized under section 21-2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

"(c) STANDARDS FOR SUBMISSION OF COMPLETED VOUCHERS. -- The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

"(d) RULE OF CONSTRUCTION. -- Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

"(e) EFFECTIVE DATE. -- This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals during fiscal year 2002, and claims received previously that remain unpaid at the end of fiscal year 2001, and would have qualified for interest payment under this section."

Prompt Payment of Appointed Counsel. Section 128 of Pub. L. 108-7, Feb. 20, 2003, 117 Stat. 127, provides:

"(a) If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

"(b) A payment described in this subsection is--

"(1) a payment authorized under section 11-2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act);

"(2) a payment for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code; or

"(3) a payment for counsel authorized under section 21-2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

"(c) The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

"(d) Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

"(e) This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals during fiscal year 2003 and any subsequent fiscal year."

Section 35 of D.C. Law 19-169 provides:

"Sec. 35. No provision of this act shall impair any right or obligation existing under law."

§ 16-2301.01. REFERENCES DEEMED TO REFER TO FAMILY COURT OF

THE SUPERIOR COURT.

Any reference in this chapter or any other Federal or District of Columbia law, Executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Family Division of the Superior Court of the District of Columbia shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia.

(Jan. 8, 2002, 115 Stat. 2101, Pub. L. 107-114, § 2(d)(3).)

§ 16-2301.02. PURPOSE.

The purpose of this subchapter is to create a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system that will treat children as children in all phases of their involvement, while protecting the needs of communities and victims alike. In furtherance of this purpose, the following goals have been established for delinquency cases in the Family Court:

- (1) To provide due process through which juveniles and all other interested parties are assured fair hearings, during which applicable constitutional and other legal rights are recognized and enforced;
- (2) To promote youth development and prevent delinquency through early intervention, diversion, and community-based alternatives;
- (3) To preserve and strengthen families whenever possible and to remove a child from the custody of the child's parents, guardian, or other custodian only when it is determined by the appropriate authority to be in the child's best interests or when necessary for the safety and protection of the public;
- (4) To hold a child found to be delinquent accountable for his or her actions, taking into consideration the child's age, education, mental and physical condition, background, and all other relevant factors;
- (5) To place a premium on the rehabilitation of children with the goal of creating productive citizens and to recognize that rehabilitation of children is inextricably connected to the well-being and strength of their families;
- (6) To serve children in their own neighborhood and communities whenever possible;
- (7) To hold the government accountable for the provision of reasonable rehabilitative services;
- (8) To provide for the safety of the public; and
- (9) To achieve the foregoing goals in the least restrictive settings necessary, with a preference at all times for the preservation of the family and the integration of parental, guardian, or custodial accountability and participation in treatment and counseling programs.

(Mar. 17, 2005, D.C. Law 15-261, § 102(b), 52 DCR 1188; Apr. 13, 2005, D.C. Law 15-354, § 104, 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 15-354 renumbered this section from § 16-2301.01 to § 16-2301.02.

Legislative History of Laws

Law 15-261, the "Omnibus Juvenile Justice Act of 2004", was introduced in Council and assigned Bill No. 15-537, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 5, 2004, and November 9, 2004, respectively. Signed by the Mayor on November 30, 2004, it was assigned Act No. 15-637 and transmitted to both Houses of Congress for its review. D.C. Law 15-261 became effective on March 17, 2005.

Law 15-354, the "Technical Amendments Act of 2004", was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

§ 16-2302. TRANSFER OF CRIMINAL MATTERS TO FAMILY DIVISION.

(a) If it appears to a court, during the pendency of a criminal charge and before the time when jeopardy would attach in the case of an adult, that a minor defendant was a child at the time of an alleged offense, the court shall forthwith transfer the charge against the defendant, together with all papers and documents connected therewith, to the Division. All action taken by the court prior to transfer of the case shall be deemed null and void unless the Division transfers the child for criminal prosecution under section 16-2307.

(b) If at the time of an alleged offense, a minor defendant was a child but this fact is not discovered by the court until after jeopardy has attached, the court shall proceed to verdict. If judgment has not been entered, the court shall determine on the basis of the criteria in section 16-2307(e) whether to enter judgment or to refer the case to the Division for disposition. If judgment has been entered, it shall not be set aside on the ground of the defendant's age unless the court, after hearing, determines that (1) neither the defendant nor his counsel, prior to the entry of judgment, had reason to believe that defendant was under the age of eighteen years, and (2) the defendant would not have been transferred for criminal prosecution if his age had been known and the procedure set forth in section 16-2307 had been followed. If the judgment is set aside, the case shall be referred to the Division for disposition. The disposition and all prior proceedings in any court of any case referred to the Division for disposition pursuant to this section shall be subject to the confidentiality provisions of sections 16- 2331 through 16-2336.

(c) The court making a transfer shall order the minor to be taken forthwith to the Division or to a place of detention designated for children by the Division. The Division shall then proceed as provided in this subchapter.

(d) Nothing in this section shall affect the jurisdiction of a court over a person twenty-one years of age or older.

(Dec. 23, 1963, 77 Stat. 586, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 525, Pub. L. 91-358, title I, § 121(a); Mar. 24, 1998, D.C. Law 12-81, § 10(v), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2302.

1973 Ed., § 16-2302.

Legislative History of Laws

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

§ 16-2303. RETENTION OF JURISDICTION.

For purposes of this subchapter, jurisdiction obtained by the Division in the case of a child shall be retained by it until the child becomes twenty-one years of age, unless jurisdiction is terminated before that time. This section does not affect the jurisdiction of other divisions of the Superior Court or of other courts over offenses committed by a person after he ceases to be a child. If a minor already under the jurisdiction of the Division is convicted in the Criminal Division or another court of a crime committed after he ceases to be a child, the Family Division may, in appropriate cases, terminate its jurisdiction.

(Dec. 23, 1963, 77 Stat. 587, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 525, Pub. L. 91-358, title I, § 121(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2303.

1973 Ed., § 16-2303.

Miscellaneous Notes

Appropriations approved: Public Law 104-194, 110 Stat. 2358, the District of Columbia Appropriations Act, 1997, provided that funds appropriated for expenses under this section for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985.

§ 16-2304. RIGHT TO COUNSEL; PARTY STATUS.

(a) A child alleged to be delinquent or in need of supervision is entitled to be represented by counsel at all critical stages of Division proceedings, including the time of admission or denial of allegations in the petition and all subsequent stages. If the child and his parent, guardian, or custodian are financially unable to obtain adequate representation, the child shall be entitled to have counsel appointed for him in accordance with rules established by the Superior Court. In its discretion, the Division may appoint counsel for the child over the objection of the child, his parent, guardian, or other custodian.

(b)(1) When a child is alleged to be neglected or when the termination of the parent and child relationship is under consideration, the parent, guardian, or custodian of the child named in the petition or in a motion to terminate is entitled to be represented by counsel at all critical stages of the proceedings, and, if financially unable to obtain adequate representation, to have counsel appointed in accordance with rules

established by the Superior Court of the District of Columbia.

(2) Every report required to be submitted to the Division by this chapter, or otherwise submitted to the Division in any proceeding, shall be served on all counsel and unrepresented parties by mail or by facsimile at the same time it is submitted to the Division.

(3) The Division shall maintain a register of those attorneys who have expressed an interest in being appointed to represent parties or to serve as guardians ad litem in neglect proceedings, and shall attempt insofar as possible to make appointments from the register.

(4)(A) The following individuals, if there are any for the child, and their attorneys, shall be provided notice of, and an opportunity to be heard in, the neglect or termination proceedings:

- (i) The child's current foster parent;
- (ii) The child's current preadoptive parent;
- (iii) The child's current legal guardian or kinship caregiver;
- (iv) The child's therapist; and
- (v) A relative or other individual with whom the child is currently placed pursuant to § 16-2320(a)(3)(C).

(B) In addition to the requirements of subparagraph (A) of this paragraph, if the child has been living with a person other than the parent, the person shall receive notice of the neglect or termination proceedings and, if the child has been with them for 12 months or more, the person may, upon his or her request, be designated a party to the proceedings. If the child has been living with the person less than 12 months, upon the person's request, the judge may, at his or her discretion, designate the person a party to the proceedings which pertain to the determination of neglected child as defined in § 16-2301(9). If the parent or other person party to the proceedings is financially unable to obtain adequate representation, counsel shall be appointed according to rules established by the Superior Court of the District of Columbia.

(5) The Superior Court shall in every case involving a neglected child which results in a judicial proceeding, including the termination of the parent and child relationship pursuant to subchapter III of this chapter, appoint a guardian ad litem who is an attorney to represent the child in the proceedings. The guardian ad litem shall in general be charged with the representation of the child's best interest.

(c) Prior to appointment of counsel under this section, the eligibility of a child or other party to be represented by counsel shall be determined by the Division pursuant to rules established by the Superior Court of the District of Columbia.

(d) There are authorized to be appropriated such funds as may be necessary for the administration of this section.

(Dec. 23, 1963, 77 Stat. 587, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 526, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 402, 24 DCR 3341; June 4, 1982, D.C. Law 4-114, § 2, 29 DCR 1699; Mar. 13, 1985, D.C. Law 5-129, § 2(b), 31 DCR 5192; June 27, 2000, D.C. Law 13-136, § 301(b), 47 DCR 2850.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2304.

1973 Ed., § 16-2304.

Effect of Amendments

D.C. Law 13-136 rewrote subsecs. (b)(2) through (d), inclusive, which previously read:

"(b)(2) The Division shall maintain a register of those attorneys who have expressed an interest in being appointed to represent parties or to serve as guardians ad litem in neglect proceedings, and shall attempt insofar as possible to make appointments from the register.

"(3) If the child has been living with a person other than the parent, the person shall receive notice of the neglect or the termination proceedings and, if the child has been with them for twelve (12) months or more, the person may, upon his or her request, be designated a party to the proceedings. If the child has been living with the person less than twelve (12) months, upon the person's request the judge may, at his or her discretion, designate the person a party to the proceedings [proceedings] which pertain to the determination of neglect as defined in D.C. Code, section 16-2301. If the parent or other person party to the proceedings is financially unable to obtain adequate representation, counsel shall be appointed according to rules established by the Superior Court of the District of Columbia. The Superior Court shall in every case involving a neglected child which results in a judicial proceeding, including the termination of the parent and child relationship pursuant to subchapter III of this chapter, appoint a guardian ad litem who is an attorney to represent the child in the proceedings. The guardian ad litem shall in general be charged with the representation of the child's best interest.

"(c) Prior to appointment of counsel under this section, the eligibility of a child or other party to be represented by counsel shall be determined by the Division pursuant to rules established by the Superior Court of the District of Columbia.

"(d) There are authorized to be appropriated such funds as may be necessary for the administration of this section."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 301(b) of Adoption and Safe Families Temporary Amendment Act of 1999 (D.C. Law 13-56, March 7, 2000, law notification 47 DCR 1978).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 301(b) of the Adoption and Safe Families Emergency Amendment Act of 1999 (D.C. Act 13-117, July 28, 1999, 46 DCR 6558).

For temporary (90-day) amendment of section, see § 301(b) of the Adoption and Safe Families Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13- 178, November 2, 1999, 46 DCR 9714).

For temporary (90-day) amendment of section, see § 301(b) of the Adoption and Safe Families Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-240, January 11, 2000, 47 DCR 556).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

Law 4-114, the "Assistance to Neglected Children Funding Authorization Act of 1982," was introduced in Council and assigned Bill No. 4-411, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on March 23, 1982, and April 6, 1982, respectively. Signed by the Mayor on April 12, 1982, it was assigned Act No. 4-177 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 5-129, see Historical and Statutory Notes following § 16-2326.1.

For Law 13-136, see notes following § 16-2301.

§ 16-2305. PETITION; CONTENTS; AMENDMENT.

(a) Complaints alleging delinquency or need of supervision shall be referred to the Director of Social Services, and complaints alleging neglect shall be referred to the Director of the Child and Family Services Agency, each of whom shall conduct a preliminary inquiry to determine whether the best interests of the child or the public require that a petition be filed. If judicial action appears warranted, under intake criteria established by rule of the Superior Court of the District of Columbia, the Director of Social Services, or the Director of the Agency shall recommend that a petition be filed. If the Director of Social Services, in the case of a complaint alleging delinquency or need of supervision, decides not to recommend the filing of a petition, the complainant shall have a right to have that decision reviewed by the Corporation Counsel. The Director of Social Services, in the case of a complaint alleging delinquency or need of supervision, shall notify the complainant of such right of review. Complaints alleging neglect submitted by the Agency shall be referred directly to the Corporation Counsel of the District of Columbia.

(b) Petitions initiating judicial action may be signed by any person who has knowledge of the facts alleged or, being informed of them, believes they are true, except that petitions alleging need of supervision may only be signed by the Director of Social Services, a representative of a public agency or a nongovernmental agency licensed and authorized to care for children, a representative of a public or private agency providing social service for families, a school official, or a law enforcement officer. Petitions shall be verified and verification may be upon information or belief.

(c)(1) Each petition shall be prepared by the Corporation Counsel after an inquiry into the facts and a determination of the legal basis for the petition. If the Director of Social Services has refused to recommend the filing of a delinquency petition, or if the Director of the Agency has refused to recommend the filing of a neglect petition, the Corporation Counsel, on request of the complainant, shall review the facts presented and shall prepare and file a petition if he believes such action is necessary to protect the community or the interests of the child. Any decision of the Corporation Counsel on whether to file a petition shall be final.

(2) Where the delinquency petition filed by the Corporation Counsel is the 3rd petition filed against a child and the child is 13 years old or younger, the Child and Family Services Agency shall institute a child neglect investigation against the parent, guardian, or custodian of the child.

(d) A petition shall be filed by the Corporation Counsel within seven days (excluding Sundays and legal holidays) after the complaint has been referred to the Director of Social Services, except as otherwise provided in section 16- 2312. A petition shall set forth plainly and concisely the facts which give the

Division jurisdiction of the child under section 11-1101(13). In delinquency cases the petition shall also state the specific statute or ordinance on which the charge is based. If delinquency or need of supervision is alleged, a statement shall be included in the petition that the child appears to be in need of care or rehabilitation. The petition shall contain such other facts and information as may be required by rules of the Superior Court.

(e) A petition may be amended by leave of the Division on motion of the Corporation Counsel or counsel for the child, at any time prior to the conclusion of the factfinding hearing. The Division shall grant the Corporation Counsel, the child, and his parent, guardian, or custodian notice of the amendment and, where necessary, additional time to prepare.

(f) The District of Columbia shall be a party to all proceedings under this subchapter.

(Dec. 23, 1963, 77 Stat. 588, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 526, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(b), 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(x), 45 DCR 745; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(2), (3), 48 DCR 2043; Mar. 17, 2005, D.C. Law 15-261, § 1002(a), 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2305.

1973 Ed., § 16-2305.

Effect of Amendments

D.C. Law 13-277 rewrote subsec. (a) which formerly read:

"(a) Complaints alleging delinquency, need of supervision, or neglect shall be referred to the Director of Social Services who shall conduct a preliminary inquiry to determine whether the best interests of the child or the public require that a petition be filed. If judicial action appears warranted, under intake criteria established by rule of the Superior Court, the Director shall recommend that a petition be filed. If the Director decides not to recommend the filing of a petition, the complainant in a delinquency or neglect case shall have a right to have that decision reviewed by the Corporation Counsel, and the Director shall notify the complainant of such right of review. Complaints alleging neglect submitted by the Child Protective Services Division of the Department of Human Services shall be referred directly to the Corporation Counsel of the District of Columbia."

and in subsec. (c) substituted "If the Director of Social Services has refused to recommend the filing of a delinquency petition, or if the Director of the Agency has refused to recommend the filing of a neglect petition" for "If the Director of Social Services has refused to recommend the filing of a delinquency or neglect petition" in the second sentence.

D.C. Law 15-261, in subsec. (c), designated the existing language as par. (1), and added par. (2).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

For D.C. Law 13-277, see notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

§ 16-2305.01. FINDINGS.

The Council finds that:

(1) Juveniles who are not under proper supervision and control or who are arrested for certain nonviolent offenses are likely to endanger their own health, morals, and welfare and the health, morals, and welfare of others.

(2) It shall be the policy of the District of Columbia that with respect to these juveniles the District of Columbia shall be guided by the assumption that juveniles who previously have had little or no contact with the juvenile justice system and who do not represent a danger to the public safety may benefit from an alternative to adjudication that is noncriminal, reformative and protective in nature.

(3) Accordingly, the District of Columbia recognizes the appropriateness of alternatives to adjudication, which may include diversion programs and services, for certain juveniles who are in need of supervision or who are arrested for certain nonviolent offenses. The remedies and procedures provided herein shall not be in derogation of parental rights and responsibilities under existing laws.

(Apr. 9, 1997, D.C. Law 11-199, § 2(b), 43 DCR 4385; Mar. 24, 1998, D.C. Law 12-81, § 10(y), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Law 11-199, the "Adjustment Process for Nonviolent Juvenile Offenders and Parent Participation in Court-Ordered Proceedings Act of 1996," was introduced in Council and assigned Bill No. 11-622, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-361 and transmitted to both Houses of Congress for its review. D.C. Law 11-199 became effective on April 9, 1997.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

Section 28(c)(1) of D.C. Law 15-354 provides that the section designation of § 16-2305.1 of the District of Columbia Official Code is redesignated as § 16-2305.01.

§ 16-2305.02. PRELIMINARY PROBATION CONFERENCES; ADJUSTMENT PROCESS.

(a) For the purposes of this section, the term:

(1) "Adjustment process" means the process by which the Social Services Division and the Office of the Corporation Counsel may proceed where a determination is made that the filing of a delinquency or persons in need of supervision petition is not in the best interests of the child or public.

(2) "Nonviolent offenses" means those offenses identified as such by the Office of the Corporation Counsel in an interagency agreement with the Social Services Division, but shall not include a "crime of violence" as defined in section 1(f) of An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; § 22-4501(f)), or possessory firearm offenses.

(b) Where the Director of Social Services recommends, after a preliminary inquiry is conducted pursuant to D.C. Official Code § 16-2305(a), that it is not in the best interests of the child or public to recommend the filing of a delinquency or persons in need of supervision petition, the Director of Social Services shall so recommend to the Office of the Corporation Counsel, and the Corporation Counsel shall make a determination of the suitability of the case for adjustment, which may include diversion. The Director of Social Services shall permit any participant who is represented by a lawyer to be accompanied by the lawyer at any preliminary conference.

(c) In order to determine whether the case is suitable for adjustment, the Director of Social Services, in consultation with the Office of the Corporation Counsel, shall consider the following circumstances, among others:

(1) The age of the child;

(2) Whether the conduct allegedly involved:

(A) An act or acts causing or threatening to cause death, substantial pain, or serious physical injury to another;

(B) The use or knowing possession of a dangerous instrument or deadly weapon;

(C) The use or threatened use of violence to compel a person to engage in sexual intercourse, deviant sexual intercourse, or sexual contact;

(D) The use or threatened use of violence to obtain property;

(E) The use or threatened use of deadly physical force with the intent to restrain the liberty of another;

(F) The intentional starting of a fire or the causing of an explosion which resulted in damage to a building;

(G) A serious risk to the welfare and safety of the community; or

(H) An act which seriously endangered the safety of the child or another person;

(3) Whether there is a substantial likelihood that the child will not appear at scheduled conferences with the Social Services Division or with an agency to which he or she may be referred;

(4) Whether there is a substantial likelihood that the child will not participate in the diversion programs or services developed and recommended by the Social Services Division or cooperate during the adjustment process;

(5) Whether there is a substantial likelihood that in order to adjust the case successfully, the child would require services that could not be administered effectively in less than 6 months;

(6) Whether there is a substantial likelihood that the child will, during the adjustment process:

(A) Commit an act which, if committed by an adult, would be a crime; or

(B) Engage in conduct that endangers the physical or emotional health of the child or a member of the child's family or household; or

(C) Harass the complainant, victim, or person seeking to have a delinquency petition filed, or a member of that person's family or household, where demonstrated by prior conduct or threats;

(7) Whether there is pending another proceeding to determine whether the child is a child in need of supervision or a delinquent;

(8) Whether there have been prior adjustments or adjournments in contemplation of dismissal in other delinquency proceedings;

(9) Whether there has been a prior adjudication of the child as a delinquent child or child in need of supervision;

(10) Whether there is a substantial likelihood that the adjustment process would not be successful unless the child is temporarily removed from his or her home and that such removal could not be accomplished without invoking the court process;

(11) Whether a proceeding has been or will be instituted against another person for acting jointly with the child; and

(12) Whether the juvenile case would otherwise have been petitioned by the Office of the Corporation Counsel.

(d) At the preliminary inquiry, the Director of Social Services shall inform each person entitled to be present of the function and limitations of, and the alternatives to, the adjustment process, and that:

(1) He or she has a right to participate in the adjustment process, which may include, but is not limited to, periodic drug testing, attendance at parenting classes, or participation in counseling, treatment, or educational programs;

(2) The Social Services Division is not authorized to and cannot compel any person to appear at any conference, produce any papers, or visit any place absent court order;

(3) The person seeking to have a delinquency petition filed is entitled to have access to the Office of the Corporation Counsel at any time for the purpose of requesting that a petition be filed;

(4) The adjustment process may continue for a period of 6 months and may be extended for an additional six months upon written application to the Director of Social Services and the Office of the Corporation Counsel and approval thereof by both;

(5) Statements made to the Social Services Division or the Office of the Corporation Counsel by the child or his or her parent shall not be admissible for any purpose during any subsequent court proceeding and are subject to the confidentiality provisions contained in this chapter; and

(6) If the adjustment process is commenced and not successfully concluded, the persons participating therein may be notified orally or in writing of that fact by the Social Services Division, that the case will be referred to the Office of the Corporation Counsel and that oral notification must be confirmed in writing.

(Apr. 9, 1997, D.C. Law 11-199, § 2(b), 43 DCR 4385; Mar. 24, 1998, D.C. Law 12-81, § 10(z), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2305.2.

Legislative History of Laws

For legislative history of D.C. Law 11-199, see Historical and Statutory Notes following § 16-2305a.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

Miscellaneous Notes

Section 28(c)(1) of D.C. Law 15-354 provides that the section designation of § 16-2305.2 of the District of Columbia Official Code is redesignated as § 16-2305.02.

§ 16-2306. SERVICE OF SUMMONS AND PETITION.

(a) When a petition is filed, the Division shall set a time for initial appearance and shall direct the issuance of summonses. If delinquency or need of supervision is alleged, a summons, together with a copy of the petition, shall be served upon the child and upon his spouse (if any) and his parent, guardian, or other custodian. If neglect is alleged, the summons, together with a copy of the petition, shall be served on the parent, guardian, or other custodian of the child named in the petition. Where appropriate to the proper disposition of the case, the Division may direct service of summonses upon other persons. A summons issued pursuant to this section shall advise the parties of the right to counsel as provided in section 16-2304.

(b) Upon request of the Corporation Counsel, the Division may endorse upon the summons an order directing the parent, guardian, or other custodian of the child to appear personally at the hearing and directing the person having physical custody or control of the child to bring the child to the hearing.

(c) If it appears, from information presented to the Division, that there are grounds to take the child into custody as provided in section 16-2309, or that the child may leave or be removed from the jurisdiction of the Superior Court or will not be brought to the hearing, notwithstanding service of the summons, the Division may endorse upon the summons an order that the officer serving summons shall at once take the child into custody. If the child is taken into custody under this section, the provisions of sections 16-2309 to 16-2312 shall apply.

(Dec. 23, 1963, 77 Stat. 588, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 527, Pub. L. 91-358, title I, § 121(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2306.

1973 Ed., § 16-2306.

§ 16-2307. TRANSFER FOR CRIMINAL PROSECUTION.

(a) Within twenty-one days (excluding Sundays and legal holidays) of the filing of a delinquency petition, or later for good cause shown, and prior to a factfinding hearing on the petition, the Corporation Counsel may file a motion, supported by a statement of facts, requesting transfer of the child for criminal prosecution, if-

(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child;

(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age; or

(4) a child under 18 years of age is charged with the illegal possession or control of a firearm within 1000 feet of a public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, playground, video arcade, or youth center, or an event sponsored by any of the above entities. For the purposes of this paragraph "playground" means any facility intended for recreation, open to the public, and with any portion of the facility that contains 1 or more separate apparatus intended for the recreation of children, including, but not limited to, sliding boards, swingsets, and teeterboards. For the purposes of this paragraph "video arcade" means any facility legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement, and which contains a minimum of 10 pinball or video machines. For the purposes of this paragraph "youth center" means any recreational facility or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provide athletic, civic, or cultural activities.

(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of section 16-2306.

(c) When there are grounds to believe that the child is incompetent to proceed, the Division shall stay the proceedings for the purpose of obtaining an examination pursuant to Chapter 5A of Title 24. If the Division determines, pursuant to Chapter 5A of Title 24, that the child is incompetent to proceed, the Division shall not proceed to a determination under subsection (d) of this section unless it subsequently has determined that the competency of the child has been restored.

(d)(1)(A) Except as provided in subsection (c) of this section, the Division shall conduct a hearing on each transfer motion to determine whether to transfer the child for criminal prosecution. The hearing shall be held within 30 days (excluding Sundays and legal holidays) after the filing of the transfer motion. Upon motion of the child or the Corporation Counsel, for good cause shown, the hearing may be continued for an additional period not to exceed 30 days (excluding Sundays and legal holidays). If the hearing commences more than 60 days (excluding Sundays and legal holidays) after the filing of the transfer

motion, the Division must state in the order the extraordinary circumstances for the delay.

(B) The judicial decision whether to transfer the child shall be made within 30 days (excluding Sundays and legal holidays) after the conclusion of the transfer hearing. For good cause shown, the Division may extend the time in which to issue its decision by an additional period not to exceed 30 days (excluding Sundays and legal holidays).

(2)(A) The Division shall order the transfer if it determines that it is in the interest of the public welfare and protection of the public security and there are no reasonable prospects for rehabilitation of the child.

(B) A statement of the Division's reasons for ordering the transfer shall accompany the transfer order. The Division's findings with respect to each of the factors set forth in subsection (e) of this section relating to the public welfare and protection of the public security shall be included in the statement. The statement shall be available upon request to any court in which the transfer is challenged, but shall not be available to the trier of fact of the criminal charge prior to verdict.

(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority and whether it is in the interest of the public welfare to transfer for criminal prosecution:

- (1) the child's age;
- (2) the nature of the present offense and the extent and nature of the child's prior delinquency record;
- (3) the child's mental condition;
- (4) the child's response to past treatment efforts including whether the child has absconded from the legal custody of the Mayor or a juvenile institution;
- (5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer; and
- (6) The potential rehabilitative effect on the child of providing parenting classes or family counseling for one or more members of the child's family or for the child's caregiver or guardian.

(e-1) For purposes of the transfer hearing the Division shall assume that the child committed the delinquent act alleged.

(e-2) There is a rebuttable presumption that a child 15 through 18 years of age who has been charged with any of the following offenses, should be transferred for criminal prosecution in the interest of public welfare and the protection of the public security:

- (1) Murder, first degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense;
- (2) Any offense listed in paragraph (1) of this subsection and any other offense properly joinable with such an offense;
- (3) Any crime committed with a firearm; or
- (4) Any offense that if the child were charged as an adult would constitute a violent felony and the child has three or more prior delinquency adjudications.

(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least three days prior to the hearing.

(g) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child for whom a motion to transfer was filed, participate in any subsequent factfinding proceedings relating to the offense.

(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Division over the child with respect to any subsequent delinquent act; except that jurisdiction of the Division over the child is restored if (1) the criminal prosecution is terminated other than by a plea of guilty, a verdict of guilty, or a verdict of not guilty by reason of insanity, and (2) at the time of the termination of the criminal prosecution no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.

(Dec. 23, 1963, 77 Stat. 588, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 527, Pub. L. 91-358, title I, § 121(a); Feb. 27, 1990, D.C. Law 8-71, § 2, 36 DCR 7746; May 15, 1993, D.C. Law 9-272, § 101, 40 DCR 796; Feb. 5, 1994, D.C. Law 10-68, § 20(b), 40 DCR 6311; Aug. 18, 1994, D.C. Law 10-150, § 2, 41 DCR 2594; Mar. 16, 1995, D.C. Law 10-227, § 3(b), 42 DCR 4; Apr. 12, 2000, D.C. Law 13-91, § 142(c), 47 DCR 520; Mar. 17, 2005, D.C. Law 15-261, §§ 202(b), 402, 52 DCR 1188; May 24, 2005, D.C. Law 15-358, § 203, 53 DCR 2015.)

Prior Codifications

1981 Ed., § 16-2307.

1973 Ed., § 16-2307.

Effect of Amendments

D.C. Law 13-91, in par. (e-2)(1), substituted "first degree sexual abuse" for "forcible rape".

D.C. Law 15-261 rewrote subsecs. (c) and (d) which had read:

"(c) When there are grounds to believe the child is substantially retarded or mentally ill, the Division shall stay the proceedings for the purpose of obtaining an examination. After examination, the Division shall proceed to a determination under subsection (d) of this section unless it determines that the child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital pursuant to section 16-2315 or section 24-501(a).

"(d) Unless a commitment under subsection (c) of this section has intervened, the Division shall conduct a hearing on each transfer motion to determine whether to transfer the child for criminal prosecution. This hearing shall be held within ten days (excluding Sundays and legal holidays) of the filing of the transfer motion. The Division shall order the transfer if it determines that it is in the interest of the public welfare and protection of the public security and there are no reasonable prospects for rehabilitation. A statement of the Division's reasons for ordering the transfer shall accompany the transfer order. The Division's findings with respect to each of the factors set forth in subsection (e) of this section relating to the public welfare and protection of the public security shall be included in the statement. This statement shall be available upon request to any court in which the transfer is challenged, but shall not be available to the trier of fact of the criminal charge prior to verdict."

Law 15-358, in subsec. (c), substituted "Chapter 5A of Title 24" for "section 24-501".

Legislative History of Laws

Law 8-71, the "District of Columbia Public School Firearm Prohibition Act of 1989," was introduced in Council and assigned Bill No. 8-240, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 10, 1989, and October 24, 1989, respectively. Signed by the Mayor on November 2, 1989, it was assigned Act No. 8-108 and transmitted to both Houses of Congress for its review.

Law 9-272, the "Criminal and Juvenile Justice Reform Act of 1992," was introduced in Council and assigned Bill No. 9-374, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 14, 1993, it was assigned Act No. 9-401 and transmitted to both Houses of Congress for its review. D.C. Law 9-272 became effective on May 15, 1993.

D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Law 10-150, the "Youth Facilities Firearm Prohibition Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-265, which was referred to the Committee on . The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 28, 1994, it was assigned Act No. 10-233 and transmitted to both Houses of Congress for its review. D.C. Law 10-150 became effective on August 18, 1994.

For legislative history of D.C. Law 10-227, see Historical and Statutory Notes following § 16-2301. 8 3.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

For Law 15-261, see notes following § 16-2301.

Law 15-358, the "Incompetent Defendants Criminal Commitment Act of 2004", was introduced in Council and assigned Bill No. 15-967, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-748 and transmitted to both Houses of Congress for its review. D.C. Law 15-358 became effective on May 24, 2005.

§ 16-2308. INITIAL APPEARANCE.

The initial appearance, before a judge assigned to the Division, of a child named in a delinquency or need of supervision petition or of the parent, guardian, or custodian of a child named in a neglect petition shall

be at the time set forth in the summons, which shall be not later than five days after the petition has been filed. At the initial appearance, the child and his parent, guardian, or custodian shall be advised of the contents of the petition and of the right to counsel as provided in section 16-2304. At the initial appearance the child, or in neglect cases the parent, guardian, or custodian, may admit or deny the allegations in the petition, but it shall not be necessary at the initial appearance for the Corporation Counsel to establish probable cause to believe that the allegations in the petition are true. At the initial appearance, the judge may set the time for the fact-finding hearing or continue the matter until a later time. Failure to hold the initial appearance at the time specified shall not be grounds for dismissal of the petition. This section shall not apply in any case where, prior to or at the time of the initial appearance, a detention or shelter care hearing is required by section 16-2312.

(Dec. 23, 1963, 77 Stat. 589, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 529, Pub. L. 91-358, title I, § 121(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2308.

1973 Ed., § 16-2308.

§ 16-2309. TAKING INTO CUSTODY.

(a) A child may be taken into custody --

- (1) pursuant to order of the Division under section 16-2306 or 16-2311;
- (2) by a law enforcement officer when he has reasonable grounds to believe that the child has committed a delinquent act;
- (3) by any employee of the Agency authorized to do so, or a law enforcement officer, when he or she has reasonable grounds to believe that the child is in immediate danger from his or her surroundings and that the removal of the child from his or her surroundings is necessary;
- (4) by any employee of the Agency authorized to do so, or a law enforcement officer, after he or she has consulted with the Director of the Agency, or his or her designee, pursuant to § 4-1301.07(b) when the employee or the officer has reasonable grounds to believe that the child is suffering from illness or injury or otherwise is endangered and that the child's removal from his or her surroundings is necessary;
- (5) by a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parent, guardian, or other custodian;
- (6) by the Director of the Agency or his or her designee, upon written notification by the chief executive officer of a hospital located in the District of Columbia, that the child has resided in the hospital for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian or custodian of the child, as established by the hospital admission records, has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;
- (7) by a law enforcement officer when the officer has reasonable grounds to believe that the child, who is not in school on a day when school is in session, is of compulsory school age as required by section 1(a) of An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-202);
- (8) by the Director of Social Services, pursuant to section 16-2337;
- (9) by a law enforcement officer when the officer has reasonable grounds to believe that the child has violated a court order; or
- (10) by the Director of the Department of Youth Rehabilitation Services when a child committed to the legal custody of the Department of Youth Rehabilitation Services absconds from a community-based placement or violates any of the terms of his or her aftercare placement. For the purposes of this paragraph, the term "aftercare placement" means the placing of a child who has been committed to the legal custody of the Department of Youth Rehabilitation Services in the community under the supervision of a trained social worker.

(b) A child under the age of 13 who is taken into custody by a law enforcement officer, other than an officer in the U.S. Marshals Service, shall remain in the immediate physical presence of a law enforcement officer pending release or delivery pursuant to section 16-2311(a).

(Dec. 23, 1963, 77 Stat. 589, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 529, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(c), 24 DCR 3341; Aug. 13, 1986, D.C. Law 6-140, § 2(a), 33 DCR 3827; June 8, 1990, D.C. Law 8-134, § 2(b), 37 DCR 2613; Feb. 5, 1994, D.C. Law 10-68, § 20(c), 40

DCR 6311; Aug. 25, 1994, D.C. Law 10-159, § 2, 41 DCR 4884; Apr. 9, 1997, D.C. Law 11-255, § 18(f), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 10(aa), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-258, § 2(a), 46 DCR 1314; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(4), 48 DCR 2043; Mar. 17, 2005, D.C. Law 15-261, § 502(a), 52 DCR 1188; Apr. 13, 2005, D.C. Law 15-353, § 402, 52 DCR 2331; Mar. 2, 2007, D.C. Law 16-191, § 39, 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2309.

1973 Ed., § 16-2309.

Effect of Amendments

D.C. Law 13-277 substituted "Director of the Agency" for "Chief of the Child Protective Services Division of the Department of Human Services" throughout the section; in subsec. (a)(3), substituted "any employee of the Agency authorized to do so, or a law enforcement officer," for "a law enforcement officer"; and, in subsec. (a)(4), substituted "any employee of the Agency authorized to do so, or a law enforcement officer" for "a law enforcement officer" and "§ 4-1301.07(b), when the employee or" for "§ 4-1301.07(b) when".

D.C. Law 15-261, in subsec. (a), made nonsubstantive changes at the end of par. (7) and (8), and added par. (9).

D.C. Law 15-353, in subsec. (a), made nonsubstantive changes in pars. (8) and (9), and added par. (10).

D.C. Law 16-191, in subsecs. (a)(8), (9), and (10), validated previously made technical corrections.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 402 of the Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2002 (D.C. Law 14-164, June 25, 2002, law notification 49 DCR 6500).

For temporary (225 day) amendment of section, see § 402 of the Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2003 (D.C. Law 15-2, May 3, 2003, law notification 50 DCR 3782).

For temporary (225 day) amendment of section, see § 402 of the Child and Youth, Safety and Health Omnibus Temporary Amendment Act of 2004 (D.C. Law 15-117, March 30, 2004, law notification 51 DCR 3804).

For temporary (225 day) amendment of section, see § 2(a) of the Juvenile Justice Temporary Act of 2004 (D.C. Law 15-223, March 16, 2005, law notification 52 DCR 3549).

For temporary (225 day) amendment of section, see § 402 of the Child and Youth, Safety and Health Omnibus Second Temporary Amendment Act of 2004 (D.C. Law 15-319, on April 8, 2005, law notification 52 DCR 4708).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Emergency Amendment Act of 2002 (D.C. Act 14-310, March 26, 2002, 49 DCR 3420).

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Emergency Amendment Act of 2003 (D.C. Act 15-3, January 22, 2003, 50 DCR 1426).

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-71, April 16, 2003, 50 DCR 3593).

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Second Emergency Amendment Act of 2003 (D.C. Act 15-279, December 18, 2003, 51 DCR 60).

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-407, March 18, 2004, 51 DCR 3659).

For temporary (90 day) amendment of section, see § 2(a) of the Juvenile Justice Emergency Act of 2004 (D.C. Act 15-497, July 19, 2004, 51 DCR 7844).

For temporary (90 day) amendment of section, see § 2(a) of Juvenile Justice Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-547, October 12, 2004, 51 DCR 9844).

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Emergency Amendment Act of 2004 (D.C. Act 15-630, November 30, 2004, 52 DCR 1143).

For temporary (90 day) amendment of section, see § 2(a) of Juvenile Justice Second Congressional Review Emergency Act of 2004 (D.C. Act 15-727, January 19, 2005, 52 DCR 1952).

For temporary (90 day) amendment of section, see § 402 of Child and Youth, Safety and Health Omnibus Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-30, February 17, 2005, 52 DCR 2993).

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 6-140, see Historical and Statutory Notes following § 16-2310.01.

For legislative history of D.C. Law 8-134, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 16-2307.

Law 10-159, the "Police Truancy Enforcement Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-248, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 7, 1994, and June 21, 1994, respectively. Signed by the Mayor on July 8, 1994, it was assigned Act No. 10-275 and transmitted to both Houses of Congress for its review. D.C. Law 10-159 became effective on August 25, 1995.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

Law 12-258, the "Home and Community Juvenile Probation Supervision Act of 1998," was introduced in Council and assigned Bill No. 12-596. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-610 and transmitted to both Houses of Congress for its review. D.C. Law 12-258 became effective April 20, 1999.

For D.C. Law 13-277, see notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

Law 15-353, the "Child and Youth, Safety and Health Omnibus Amendment Act of 2004," was introduced in Council and assigned Bill No. 15-607 which was referred to the Committees on Human Services, Finance and Revenue, and Education, Libraries and Recreation. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-759 and transmitted to both Houses of Congress for its review. D.C. Law 15-353 became effective on April 13, 2005.

For Law 16-191, see notes following § 16-910.

§ 16-2310. CRITERIA FOR DETAINING CHILDREN.

(a) A child shall not be placed in detention prior to a factfinding hearing or a dispositional hearing unless he is alleged to be delinquent or in need of supervision and unless it appears from available information that detention is required --

- (1) to protect the person or property of others or of the child, or
- (2) to secure the child's presence at the next court hearing.

(a-1)(1) There shall be a rebuttable presumption that detention is required to protect the person or property of others if the judicial officer finds by a substantial probability that the child:

- (A) Committed a dangerous crime or a crime of violence while armed with or having readily available a pistol, firearm, or imitation firearm; or
- (B) Committed CPWL, carrying a pistol without a license.

(2) For the purposes of this subsection, the terms "dangerous crime" and "crime of violence" shall have the same meanings as provided in section 23-1331, except that these terms shall not include:

- (A) Any felony offense under Chapter 27 of Title 22 (Prostitution, Pandering);
- (B) Any felony offense under Chapter 9 of Title 48 (Controlled Substances);
- (C) Burglary; or
- (D) Arson.

(b) A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless it appears from available information that shelter care is required --

- (1) to protect the person of the child, or
- (2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself and that
- (3) no alternative resources or arrangements are available to the family that would adequately

safeguard the child without requiring removal.

(c) The criteria for detention and shelter care provided in this section, as implemented by rules of the Superior Court, shall govern the decisions of all persons responsible for determining whether detention or shelter care is warranted prior to the factfinding hearing.

(d) Whenever a child has been placed in shelter care, the child's parent, guardian or custodian shall be permitted visitation at least weekly unless it appears to the judge that such visitation rights would create an imminent danger to or be detrimental to the well-being of the child, in which case, the judge shall either prescribe a schedule of visitation rights or order that visitation rights not be allowed.

(e) Fact finding hearings for children ordered into secure detention or ordered into shelter care shall be held within the time limits provided in this subsection.

(1)(A) Except as provided in subparagraph (B) of this paragraph and paragraph (2) of this subsection, whenever a child has been ordered into secure detention before a factfinding hearing pursuant to §§ 16-2310 through 16-2313, the factfinding hearing set forth in § 16-2316 shall commence not later than 30 days from the date at which the Family Court ordered the child to be detained pursuant to § 16-2312.

(B) Except as provided in paragraph (2) of this subsection, whenever a child is charged with murder, assault with intent to kill, first degree sexual abuse, burglary in the first degree, or robbery while armed, and the child has been ordered into secure detention before a factfinding hearing pursuant to §§ 16-2310 through 16-2313, the factfinding hearing set forth in § 16-2316 shall commence not later than 45 days from the date at which the Family Court ordered the child to be detained pursuant to § 16-2312.

(C) Except as provided in paragraph (2) of this subsection, whenever a child has been ordered into shelter care before a factfinding hearing pursuant to §§ 16-2310 through 16-2313, the factfinding hearing set forth in § 16-2316 shall commence not later than 45 days from the date at which the Family Court ordered the child to be placed in shelter care pursuant to § 16-2312.

(2)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, upon motion of the Attorney General, for good cause shown, the factfinding hearing of a child ordered into secure detention or a child who is ordered into shelter care may be continued, and the child continued in secure detention or shelter care, for only one additional period, not to exceed 30 days.

(B) Upon motion of the Attorney General, for good cause shown, the factfinding hearing may be continued, and the child continued in secure detention or shelter care, for additional periods not to exceed 30 days each, if:

- (i) The child is charged with murder, assault with intent to kill, or first degree sexual abuse;
- (ii) The child is charged with a crime of violence, as defined in § 23-1331(4), committed while using a pistol, firearm, or imitation firearm; or
- (iii) Despite the exercise of due diligence by the District and the federal agency, DNA evidence, analysis of controlled substances, or other evidence processed by federal agencies has not been completed.

(C)(i) Upon a motion by or on behalf of the child consistent with the rules of the Superior Court of the District of Columbia, the factfinding hearing of a child ordered into secure detention or a child who is ordered into shelter care may be continued for additional periods not to exceed 30 days each.

(ii) A motion made under sub-subparagraph (i) of this subparagraph shall not be construed as a waiver of the child's speedy trial rights under this section nor under the Sixth Amendment of the United States Constitution.

(D) Additional continuances of the factfinding hearing may be granted to the Office of Attorney General if the child is no longer in either secure detention or shelter care.

(3) In determining whether good cause has been shown as required by paragraph (2) of this subsection, the Division shall take into account, among other appropriate matters, and shall state its findings on the record, as to whether:

(A) There has been or will be a delay resulting from other proceedings concerning the child, including, but not limited to, examinations to determine the mental competency or physical capacity of the child; from a hearing with respect to other charges against the child; from any interlocutory or expedited appeal; from the making, or consideration by the Division, of any pretrial motions; and from any proceeding relating to the transfer of the child pursuant to § 16-2307;

(B) Any essential witness is absent or unavailable. For purposes of this subparagraph, an essential witness shall be considered absent when his or her whereabouts are unknown or cannot be determined by due diligence and shall be considered unavailable when his or her presence for the hearing cannot be obtained by due diligence;

(C) Despite the exercise of due diligence, necessary autopsies, medical examinations, fingerprint

examinations, ballistic tests, drug analysis, or other scientific tests have not been completed; or

(D) The ends of justice served by continuing the period of detention outweigh the interests of the child and public in a speedy trial.

(4) Upon motion by or on behalf of the child, a child in secure detention or shelter care shall be released from custody or shelter care if the fact finding hearing is not commenced within the time period set forth in this subsection.

(f) No provision of this section shall be construed as a bar to any claim of denial of speedy trial as required by the Sixth Amendment of the United States Constitution.

(Dec. 23, 1963, 77 Stat. 590, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 529, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 403, 24 DCR 3341; Apr. 9, 1997, D.C. Law 11-179, § 2, 43 DCR 4243; May 5, 2007, D.C. Law 16-308, § 2, 54 DCR 942; Mar. 21, 2009, D.C. Law 17-328, § 2, 56 DCR 661.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2310.

1973 Ed., § 16-2310.

Effect of Amendments

D.C. Law 16-308 added subsec. (a-1).

D.C. Law 17-328 rewrote subsec. (e) and added subsec. (f). Prior to amendment, subsec. (e) read as follows:

"(e) Fact finding hearings for children placed in secure detention shall be held within the time limits provided in this subsection.

"(1) Except as provided in this subsection, whenever a child has been placed in secure detention prior to a fact finding hearing pursuant to 16-2310 through 16-2313, the fact finding hearing set forth in §§ 16-2316 shall commence not later than 30 days from the date at which the Division authorized the child to be detained pursuant to § 16-2312, unless the child is charged with murder, assault with intent to kill, first degree sexual abuse, burglary in the first degree, or robbery while armed, in which case the fact finding hearing shall commence not later than 45 days from the date at which the Division authorized the child to be securely detained.

"(2) Upon motion of the Corporation Counsel, for good cause shown, or by or on behalf of the child consistent with the Rules of the Superior Court, the fact finding hearing of a child securely detained may be continued, and the child continued in secure detention for additional periods not to exceed 30 days each.

"(3) In determining whether good cause has been shown as required by paragraph (2) of this subsection, the Division shall take into account, among other appropriate matters, and shall state its findings on the record, as to whether:

"(A) There has been or will be a delay resulting from other proceedings concerning the child, including, but not limited to, examinations to determine the mental competency or physical capacity of the child; from a hearing with respect to other charges against the child; from any interlocutory or expedited appeal; from the making, or consideration by the Division, of any pretrial motions; and from any proceeding relating to the transfer of the child pursuant to § 16-2307;

"(B) Any essential witness is absent or unavailable. For purposes of this subparagraph, an essential witness shall be considered absent when his or her whereabouts are unknown or cannot be determined by due diligence and shall be considered unavailable when his or her presence for the hearing cannot be obtained by due diligence;

"(C) Despite the exercise of due diligence, necessary autopsies, medical examinations, fingerprint examinations, ballistic tests, drug analysis, or other scientific tests have not been completed; or

"(D) The ends of justice served by continuing the period of detention outweigh the interests of the child and public in a speedy trial.

"(4) Upon motion by or on behalf of the child, a child in secure detention shall be released from custody if the fact finding hearing is not commenced within the time period set forth in this subsection."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of the Juvenile Speedy Trial Equity Temporary Act of 2008 (D.C. Law 17-139, March 26, 2008, law notification 55 DCR 4470).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 302 of Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006 (D.C. Act 16-446, July 21, 2006, 53 DCR 6477).

For temporary (90 day) amendment of section, see § 102 of Crime Reduction Initiative Emergency

Amendment Act of 2006 (D.C. Act 16-491, October 19, 2006, 53 DCR 8818).

For temporary (90 day) amendment of section, see § 101 of Crime Reduction Initiative Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-9, January 16, 2007, 54 DCR 1471).

For temporary (90 day) amendment of section, see § 2 of Crime Reduction Initiative (Rebuttable Presumption) Congressional Review Emergency Act of 2007 (D.C. Act 17-24, April 19, 2007, 54 DCR 4033).

For temporary (90 day) amendment of section, see § 2(b) of Juvenile Speedy Trial Equity Emergency Act of 2007 (D.C. Act 17-235, December 27, 2007, 55 DCR 240).

For temporary (90 day) amendment of section, see § 2(b) of Juvenile Speedy Trial Equity Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17- 315, March 19, 2008, 55 DCR 3408).

For temporary (90 day) amendment of section, see § 2 of Juvenile Speedy Trial Equity Emergency Act of 2008 (D.C. Act 17-567, November 3, 2008, 55 DCR 12107).

For temporary (90 day) amendment of section, see § 2 of Juvenile Speedy Trial Equity Congressional Review Emergency Act of 2009 (D.C. Act 18-7, January 29, 2009, 56 DCR 1633).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

Law 11-179, the "Juvenile Detention and Speedy Trial Act of 1996," was introduced in Council and assigned Bill No. 11-475, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-329 and transmitted to both Houses of Congress for its review. D.C. Law 11-179 became effective on April 9, 1997.

Law 16-308, the "Rebuttable Presumption to Detain Robbery and Handgun Violation Suspects Act of 2006", was introduced in Council and assigned Bill No. 16-895, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-643 and transmitted to both Houses of Congress for its review. D.C. Law 16-308 became effective on May 5, 2007.

Law 17-328, the "Juvenile Speedy Trial Equity Act of 2008", was introduced in Council and assigned Bill No. 17-431 which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 5, 2009, it was assigned Act No. 17-634 and transmitted to both Houses of Congress for its review. D.C. Law 17-328 became effective on March 21, 2009.

Miscellaneous Notes

Application of Law 11-179: Section 3 of D.C. Law 11-179 provided that the act shall be applicable 120 days from the effective date of the act. D.C. Law 11- 179 became effective on April 9, 1997.

§ 16-2310.01. SEPARATION OF YOUNG CHILDREN DETAINED PRIOR TO A HEARING.

The Director of the Department of Human Services and the Director of Social Services shall ensure that each child at risk who is detained, however briefly, pursuant to section 16-2311(a)(2) or (b)(1) shall be physically separated at all times, except during transportation, from children or other detainees 13 years of age or older, from any child under the age of 13 who has been detained on the ground that there is probable cause to believe the child has committed a crime of violence, as defined in section 23-1331(4), or in any other manner deemed to ensure the safety of the child. Neither the Department of Human Services nor the Director of Social Services shall deliver a child under the age of 13 to the custody of the United States Marshals Service. For the purposes of this section, "child at risk" means a child under the age of 13 or any child 13 years of age or older who, because of his or her size or physical stature, is determined to be especially physically or psychologically vulnerable to attacks by other children.

(Aug. 13, 1986, D.C. Law 6-140, § 2(c), 33 DCR 3827.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2310.1.

Temporary Addition of Section

For temporary (225 day) addition of section, see § 2(c) of the Juvenile Speedy Trial Equity Temporary Act of 2008 (D.C. Law 17-139, March 26, 2008, law notification 55 DCR 4470).

Emergency Act Amendments

For temporary (90 day) addition, see § 2(c) of Juvenile Speedy Trial Equity Emergency Act of 2007 (D.C. Act

For temporary (90 day) addition, see § 2(c) of Juvenile Speedy Trail Equity Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-315, March 19, 2008, 55 DCR 3408).

Legislative History of Laws

Law 6-140, the "Juvenile Protective Act of 1986," was introduced in Council and assigned Bill No. 6-250, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 27, 1986, and June 10, 1986, respectively. Signed by the Mayor on June 13, 1986, it was assigned Act No. 6-178 and transmitted to both Houses of Congress for its review.

Miscellaneous Notes

Section 28(c)(2) of D.C. Law 15-354 provides that the section designation of § 16-2310.1 of the District of Columbia Official Code is redesignated as § 16-2310.01.

§ 16-2311. RELEASE OR DELIVERY TO FAMILY DIVISION.

(a) A person taking a child into custody shall with all reasonable speed --

(1) release the child to his parent, guardian, or custodian upon a promise to bring the child before the Division when requested by the Division, unless the child's placement in detention or shelter care appears required as provided in section 16-2310;

(2) bring a child alleged in need of supervision or delinquent before the Director of Social Services; or

(3) bring the child to a medical facility if the child appears to require prompt treatment or to require prompt diagnosis for medical or evidentiary purposes and may order the child retained at the hospital subject to a further order of the Metropolitan Police Department of the District of Columbia, the Director of the Agency, or the Superior Court of the District of Columbia; or

(4) bring a child alleged to be a neglected child to the Director of the Agency. Any person taking a child into custody shall give prompt notice to the Corporation Counsel and to the parent, guardian, or custodian (if known) together with the reasons for custody.

(b)(1) When a child is brought before the Director of Social Services, the Director shall in all cases review the need for detention or shelter care prior to the admission of the child to the place of detention or shelter care. The child shall be released to his parent, guardian, or custodian unless the Director of Social Services finds that detention or shelter care is required under section 16-2310. If the child is not released, the Director of Social Services shall advise the child of the right to counsel as provided in section 16-2304, and if the child is under the age of 13, shall immediately deliver the child to the custody of the Director of the Department of Human Services. Under no circumstances shall the Director of Social Services deliver a child under the age of 13 to the custody of the United States Marshals Service.

(2) when a child is brought before the Director of the Agency, the Director shall review the need for shelter care prior to the admission to shelter care. If shelter care is required the Director shall select the most appropriate placement for the child. If the Director determines that shelter care is not required the Director may recommend to the Metropolitan Police Department of the District of Columbia the release of the child to his or her parent, guardian or custodian. When a child is being held in a hospital the case shall be reviewed by the Director. If the Director determines that shelter care is not required, he or she shall recommend to said Police the release of the child to his or her parent, guardian, or custodian. If the Director determines there is a need for shelter care but there is not a medical need requiring hospitalization, the Director shall secure the appropriate shelter care.

(c) If a parent, guardian, or custodian fails, when requested, to bring the child to the Division as provided in subsection (a) (1), the Division may issue a warrant directing that the child be taken into custody and brought before the Division.

(d) A person taking a child into custody or a public agency having temporary care pending a detention or shelter care hearing may bring the child to a medical facility if the child appears to require prompt treatment or to require prompt diagnosis for medical, psychiatric, or evidentiary purposes and may authorize such diagnosis or emergency treatment. Routine medical treatment shall not be authorized unless a parent cannot be consulted.

(Dec. 23, 1963, 77 Stat. 590, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 530, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(d), 24 DCR 3341; Aug. 13, 1986, D.C. Law 6-140, § 2(b), 33 DCR 3827; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(5), 48 DCR 2043.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2311.

1973 Ed., § 16-2311.

Effect of Amendments

D.C. Law 13-277 substituted "Director of the Agency" for "Chief of the Child Protective Services Division of the Department of Human Services" throughout the section.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 6-140, see Historical and Statutory Notes following § 16-2310.01.

For D.C. Law 13-277, see notes following § 16-2301.

§ 16-2311.01. RULES.

The Mayor shall issue rules to implement the provisions of section 16- 2309(b), section 16-2310.01, section 16-2311(b)(1), and section 16- 2311.01 within 90 days from August 13, 1986. These rules shall be submitted for a 30-day period of review by the Council of the District of Columbia, excluding Saturdays, Sundays, holidays, and days that pass during Council recess.

(Aug. 13, 1986, D.C. Law 6-140, § 2(e), 33 DCR 3827.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2311.1.

Legislative History of Laws

For legislative history of D.C. Law 6-140, see Historical and Statutory Notes following § 16-2310.01.

Delegation of Authority

Delegation of authority pursuant to Law 6-140, see Mayor's Order 86-192, October 27, 1986.

Miscellaneous Notes

Section 28(c)(3) of D.C. Law 15-354 provides that the section designation of § 16-2311.1 of the District of Columbia Official Code is redesignated as § 16-2311.01.

§ 16-2312. DETENTION OR SHELTER CARE HEARING; INTERMEDIATE DISPOSITION.

(a)(1) When a child is not released as provided in section 16-2311 and the child is alleged to be abused or neglected:

(A) A *guardian ad litem* shall be appointed to represent the child's best interest within 24 hours (excluding Sundays) of the child having been taken into custody;

(B) A shelter care hearing shall be commenced not later than 72 hours (excluding Sundays) after the child has been taken into custody; and

(C) A petition shall be filed at or prior to the shelter care hearing.

(2) When a child is not released as provided in section 16-2311 and the child is alleged to be delinquent or a child in need of supervision:

(A) A detention hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16-2302; and

(B) A petition shall be filed at or prior to the detention hearing.

(a-1)(1) During the 72-hour period authorized in subsection (a)(1) of this section, the Agency may convene a family team meeting to solicit the input of family members, relatives, and others concerned with the welfare of the child to develop a safety plan approved by the Agency. At a minimum, the Agency shall invite parents, relatives, caregivers, community representatives, service providers, and the *guardian ad litem* appointed to represent the child's best interest to attend a family team meeting.

(2) The Agency shall summarize the discussion from a family team meeting and record the safety plan approved by the Agency in the appropriate electronic database, and distribute a copy of the plan to all participants of the family team meeting. The safety plan shall clearly outline the roles and responsibilities of each participant and the target dates for each action set forth in the plan.

(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, and to his spouse (if any), parent, guardian, or custodian, if he can be

found, or, if neglect is alleged, to the child, and to the parent, guardian, or custodian named in the petition if he can be found. Counsel for the child, and in neglect cases counsel for the parent, guardian, or custodian, shall be entitled to a copy of the petition prior to the hearing.

(c) At the commencement of the hearing the judge shall advise the parties of the right to counsel, as provided in section 16-2304, and shall appoint counsel if required. He shall also inform them of the contents of the petition and shall afford the child, or in a neglect case, the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition. He shall then hear from the Corporation Counsel to determine whether the child should be placed or continued in detention or shelter care under the criteria in section 16-2310. The child and his parent, guardian, or custodian shall have a right to be heard in their own behalf.

(d)(1) At the conclusion of the hearing, the judge shall-

(A) order detention or shelter care, setting forth in writing his reasons therefor, if he finds that the child's detention or shelter care is required under the criteria in section 16-2310; or

(B) order the child released if he finds that the child's detention or shelter care is not required under such criteria.

(2) If a child is ordered released under paragraph (1)(B) of this subsection, the judge may impose one or more of the following conditions:

(A) Placement of the child in the custody of a parent, guardian, or custodian or under supervision of a person or organization agreeing to supervise him.

(B) Placement of restrictions on the child's travel, activities, or place of abode during the period of release.

(C) Any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

(3) If neglect is alleged, an order of shelter care under this subsection shall include a determination of whether:

(A) Reasonable efforts were made to prevent or eliminate the need for removal, or, in the alternative, a determination that the child's removal from the home is necessary regardless of any services that could be provided to the child or the child's family; and

(B) Continuation of the child in the child's home would be contrary to the welfare of the child.

(e) When a judge finds that a child's detention or shelter care is required under the criteria of section 16-2310, he shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe the allegations in the petition are true. The child, his parent, guardian or custodian may present evidence on the issues and be heard in their own behalf.

(f) When a judge finds there is probable cause to believe the allegations in the petition are true, he shall order the child to be placed or continued in detention or shelter care and set forth his reasons. When a judge finds that there is not probable cause to believe the allegations in the petition are true, he shall order the child to be released.

(g) The Division at a detention or shelter care hearing may not postpone the determination of whether detention or shelter care is required. For good cause shown, however, the Division may grant a continuance of any other part of the hearing (including the filing of a petition) for a period not to exceed five days.

(h) On motion by or on behalf of the child, a child in custody shall be released from custody if his detention or shelter care hearing is not commenced within the time set herein.

(i) If a child is not released after his detention or shelter care hearing and the parent, guardian or custodian did not receive notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

(j) Upon objection of the child or his parent, guardian or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

(k) A presumption shall exist that a child will attend the same school that he or she would have attended but for the child's entry into shelter care, unless it is determined that it is not in the child's best interest to do so.

(Dec. 23, 1963, 77 Stat. 590, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 530, Pub. L. 91-358, title I, § 121(a); June 27, 2000, D.C. Law 13-136, § 301(c), 47 DCR 2850; Apr. 12, 2005, D.C. Law 15-341, § 5(a), 52 DCR 2315; Mar. 12, 2011, D.C. Law 18-312, § 3, 57 DCR 12398.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2312.

1973 Ed., § 160-2312.

Effect of Amendments

D.C. Law 13-136 added par. (3) of subsec. (d).

D.C. Law 15-341 rewrote subsec. (a) and added subsec. (a-1). Prior to amendment, subsec. (a) read as follows:

"(a) When a child is not released as provided in section 16-2311

"(1) a detention or shelter care hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16-2302; and

"(2) a petition shall be filed at or prior to the detention or shelter care hearing."

D.C. Law 18-312 adds subsec. (k).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 301(c) of Adoption and Safe Families Temporary Amendment Act of 1999 (D.C. Law 13-56, March 7, 2000, law notification 47 DCR 1978).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 301(c) of the Adoption and Safe Families Emergency Amendment Act of 1999 (D.C. Act 13-117, July 28, 1999, 46 DCR 6558).

For temporary (90-day) amendment of section, see § 301(c) of the Adoption and Safe Families Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13- 178, November 2, 1999, 46 DCR 9714).

For temporary (90-day) amendment of section, see § 301(c) of the Adoption and Safe Families Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-240, January 11, 2000, 47 DCR 556).

For temporary (90 day) amendment of section, see § 2(a) of Child in Need of Protection Emergency Act of 2004 (D.C. Act 15-724, January 19, 2005, 52 DCR 1945).

For temporary (90 day) addition of section, see § 2(b) of Child in Need of Protection Emergency Act of 2004 (D.C. Act 15-724, January 19, 2005, 52 DCR 1945).

For temporary (90 day) amendment of section, see § 2 of Juvenile Arraignments on Inauguration Day Emergency Act of 2008 (D.C. Act 17-643, January 5, 2009, 56 DCR 680).

Legislative History of Laws

For Law 13-136, see notes following § 16-2301.

Law 15-341, the "Child in Need of Protection Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-389 which was referred to the Committee on Judiciary and the Committee on Human Services. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-758 and transmitted to both Houses of Congress for its review. D.C. Law 15-341 became effective on April 12, 2005.

Law 18-312, the "Prevention of Child Abuse and Neglect Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-579, which was referred to the Committee on Human Services, Public Safety and the Judiciary. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on December 13, 2010, it was assigned Act No. 18-633 and transmitted to both Houses of Congress for its review. D.C. Law 18-312 became effective on March 12, 2011.

§ 16-2312A. EVALUATION OF FAMILY TEAM MEETINGS AND 72-HOUR TIME PERIOD FOR COMMENCEMENT OF SHELTER CARE HEARING.

At intervals no later than 6 months, 18 months, and 30 months after [April 12, 2005], the Agency shall commission an independent process and impact evaluation of the family team meetings authorized in section 16-2312(a-1) and the 72-hour period authorized in section 16-2312(a)(1). Each evaluation shall, at a minimum, assess the following processes and outcomes of the family team meetings:

- (1) Rates of participation in the meetings for different types of participants, including parents, children, and relatives;
- (2) Demographic information about children and families who participated in the meetings;
- (3) The percentage of meetings resulting in approved safety plans;
- (4) The supports and services included in approved safety plans;
- (5) The extent to which supports and services included in approved safety plans actually were

provided;

(6) The percentage of meetings that resulted in the filing of a petition in the Family Court to remove a child from the home, and the percentage of meetings that resulted in a decision not to file a petition in Family Court;

(7) The placement outcomes for children who were the subject of the meetings, including:

(A) The percentage of children living with parents;

(B) The percentage of children living with relatives;

(C) The percentage of children who have been adopted;

(D) The percentage of children living in foster care; and

(E) Other applicable placements;

(8) The percentage of children who received a permanent placement and whose cases were closed;

(9) The percentage of children who were the subject of subsequent reports to the Agency's abuse and neglect reporting line; and

(10) The effect of the 72-hour time frame for the commencement of a Family Court hearing on families' legal protections and due-process rights.

(Apr. 12, 2005, D.C. Law 15-341, § 5(a), 52 DCR 2315.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-341, see notes following § 16-2312.

§ 16-2313. PLACE OF DETENTION OR SHELTER.

(a) A child who is alleged to be neglected and who is in custody may be placed at any time prior to disposition, only in –

(1) a foster home;

(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

(3) another facility for shelter care designated by the Division, including an appropriate facility operated by the District of Columbia.

No child alleged to be neglected may be placed in a facility described in paragraph (3) of subsection (b) of this section.

(b) A child who is alleged to be in need of supervision or (except as provided in subsection (d) or (e)) is alleged to be delinquent and who is in custody may be detained at any time prior to disposition only in –

(1) a foster home;

(2) a group home, youth shelter, or other appropriate home for allegedly delinquent children; or

(3) a detention home for allegedly delinquent children or children alleged to be in need of supervision, designated by the Division, including an appropriate facility operated by the District of Columbia.

Unless the Division shall by order so authorize, no child may be detained in a facility described in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Division.

(c) A child in detention or shelter care may be temporarily transferred to a medical facility for physical care and may, on order of the Division, be temporarily transferred to a facility for mental examination or treatment.

(d) Except as provided in subsection (e), no child under eighteen years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 16-2307. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when a child under the age of eighteen years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b) (3).

(e) A child sixteen years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.

(f) The department or agency having custody, pursuant to a shelter care order, of a child alleged to be a neglected child shall give notice, which may be oral, of any change in the placement of the child to the child's parent, the child's guardian ad litem and the child's foster parent, if any, at least forty-eight (48)

hours prior to the change in placement, except that in the case of an emergency, notice shall be given no later than twenty-four (24) hours (excluding Saturdays, Sundays and legal holidays) after the change. Notice need not be given to the parent where the Division has found that visitation would be detrimental to the child or the Division has determined that the parent should not be apprised of the child's location. Upon the request of any person entitled to notice under this subsection, the department or agency having legal custody of the child shall afford an opportunity for an administrative hearing to review the proposed change in the placement of the child, except that the department or agency need not conduct such a hearing if the requestor does not qualify as a party pursuant to D.C. Official Code, section 16-2304.

(Dec. 23, 1963, 77 Stat. 590, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 531, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 404, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2313.

1973 Ed., § 16-2313.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2314. CONSENT DECREE.

(a) At any time after the filing of a delinquency or need of supervision petition and prior to adjudication at a factfinding hearing, the Division may, on motion of the Corporation Counsel or counsel for the child, suspend the proceedings and continue the child under supervision, without commitment, under terms and conditions established by rules of the Superior Court. Such a consent decree shall not be entered unless the child is represented by counsel and has been informed of the consequences of the decree; nor shall it be entered over the objection of the child or of the Corporation Counsel.

(b) A consent decree shall remain in force for six months unless the child is sooner discharged by the Director of Social Services. Upon application of the Director of Social Services or an agency supervising the child made prior to the expiration of the decree, a consent decree may, after notice and hearing, be extended for not more than six additional months by order of the Division.

(c) If prior to the expiration of the decree or discharge by the Director of Social Services, the child fails to fulfill the express conditions of the decree or a new delinquency or need of supervision petition is filed concerning the child, the original petition under which the decree was filed may, in the discretion of the Corporation Counsel following consultation with the Director of Social Services, be reinstated. The child shall thereafter be held accountable on the original petition as if the consent decree had never been entered.

(d) If a child completes the period of continuance under supervision in accordance with the consent decree or is sooner discharged by the Director of Social Services, the Division shall dismiss the original petition.

(Dec. 23, 1963, 77 Stat. 590, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 532, Pub. L. 91-358, title I, § 121(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2314.

1973 Ed., § 16-2314.

§ 16-2315. PHYSICAL AND MENTAL EXAMINATIONS.

(a)(1) At any time following the filing of a petition, on motion of the Corporation Counsel or counsel for the child, or on its own motion, the Division may order a child to be examined to aid in determining his physical or mental condition.

(2) An order for examination under this subsection shall include:

(A) A copy of the petition;

(B) The names and addresses of the attorney for the District of Columbia and the attorney for the respondent; and

(C) A summary of the reasons for the examination request.

(3) The court may issue such orders as may be necessary to procure any available mental health and educational records and other information that is deemed relevant for purposes of the examination.

(b)(1) Wherever possible a physical or mental health examination shall be conducted on an outpatient basis, but the Division may, if it deems necessary, order the child admitted as an inpatient to a suitable medical facility for the purpose of examination.

(2) The Division may order a child admitted as an inpatient to a suitable medical facility for the purpose of a mental health examination only after a psychiatrist or qualified psychologist examines the child and makes a written finding that the child is in need of a mental health examination which cannot be effectively provided on an outpatient basis. The written finding of the psychiatrist or qualified psychologist shall be a part of the Division's order. These procedures for the inpatient mental health examination of a child shall not apply if the child is subject to the emergency hospitalization provisions of section 21-521.

(3)(A) Hospitalization for an examination shall be for a period of not more than 21 days, except that the Division may grant extensions which may not exceed 21 days in the aggregate if a psychiatrist or qualified psychologist certifies that a mental health examination has not been completed and cannot be effectively provided on an outpatient basis.

(B) If the examination is to determine whether the child is incompetent to proceed, an extension of time may not be granted unless the psychiatrist or qualified psychologist also certifies that the psychiatrist or qualified psychologist is unable to determine whether the child is incompetent to proceed and needs an additional period of time to complete the examination.

(b-1) A report of a mental health examination ordered under this section to determine whether a child is incompetent to proceed shall be made in writing and served on the court and the attorneys of record. The report shall include:

(1) An assessment of the child's capacity to understand the proceedings against him, including the nature of the charges and range of potential options available to the court at disposition;

(2) An assessment of the child's ability to assist his attorney; and

(3) If the report concludes the child is incompetent to proceed:

(A) The reasons and bases for the conclusion;

(B) The suspected cause of the incompetence;

(C) An assessment of the likelihood of the child attaining competence in the reasonably foreseeable future; and

(D) If the child is assessed to be likely to attain competence in the reasonably foreseeable future:

(i) Any recommended treatment and services that may render the child competent in the reasonably foreseeable future; and

(ii) A certification as to the least restrictive setting for providing such treatment and services.

(c)(1) If as a result of mental examination the Division determines that a child alleged to be delinquent is incompetent to proceed under the petition and is unlikely to attain competence in the reasonably foreseeable future, it shall suspend further proceedings and the Corporation Counsel shall, where appropriate, initiate commitment proceedings pursuant to Chapter 5 or 11 of Title 21.

(2)(A) If as a result of mental examination the Division determines that a child alleged to be delinquent is incompetent to proceed under the petition and is likely to attain competence in the reasonably foreseeable future, the Division shall order that the child receive such treatment on an outpatient basis, unless a psychiatrist or qualified psychologist certifies and the Division finds that inpatient hospitalization is the least restrictive setting for providing treatment and services that may render the child competent in the reasonably foreseeable future.

(B) If the Division determines that hospitalization is not appropriate, the child may be ordered into detention or shelter care if detention or shelter care would otherwise be warranted pursuant to section 16-2310 while receiving treatment and services that may render the child competent in the reasonably foreseeable future.

(3) If an order for inpatient hospitalization is made under paragraph (2) of this subsection, the Division may order the child sent to a hospital or mental health facility or unit designated by the Mayor as appropriate for treatment of juveniles alleged to be delinquent.

(4) If, at any time after the child is ordered to undergo treatment under paragraph (2) of this subsection, the psychiatrist or qualified psychologist responsible for the treatment believes the child is competent, or, in the case of a child hospitalized under paragraph (3) of this subsection, determines that inpatient hospitalization is no longer the least restrictive setting for providing treatment and services that may render the child competent, the psychiatrist or qualified psychologist shall immediately send a report to the Division and attorneys of record stating the basis for the conclusion that the child has attained competency or that inpatient hospitalization is no longer the least restrictive setting.

(5)(A) The Division shall hold a prompt hearing upon receipt of a report under paragraph (4) of this subsection, and no more than once in a 45-day period, the Division, on motion of the child or the

Corporation Counsel, may hold a hearing to determine the child's progress toward attaining competence.

(B) At any hearing conducted pursuant to this paragraph, the Division shall determine whether continued treatment and services are supported by a finding that the child is likely to attain competence in the reasonably foreseeable future. Where the psychiatrist or qualified psychologist has reported that inpatient hospitalization is no longer the least restrictive setting for providing treatment and services that may render the child competent, the Division shall order that any further treatment and services be rendered on an outpatient basis. In such case, the Division may order the child into detention or shelter care if detention or shelter care would otherwise be warranted pursuant to section 16-2310 while receiving continued treatment and services.

(6) The psychiatrist or qualified psychologist responsible for the treatment of the child shall ensure that a report is prepared and submitted to the Division and attorneys of record every 2 months, or at such shorter intervals as ordered by the court, from the date the treatment order is issued under paragraph (2) of this subsection. The report shall contain information regarding the child's progress toward attaining competency, the treatment being provided, and any recommendations regarding changes to the treatment that would be likely to aid in achieving the goal of the order. If the child is hospitalized, the report shall also include a statement indicating whether inpatient hospitalization continues to be the least restrictive setting for providing treatment and services that may render the child competent in the reasonably foreseeable future.

(7)(A) No child ordered into a hospital, detention, or shelter care while receiving treatment and services under this section shall be so confined for more than 180 days, except the Division may order such confinement to continue for up to 180 more days if it finds that:

- (i) The child remains incompetent to proceed;
- (ii) There is a substantial probability the child will attain competence within the period of continued confinement; and
- (iii) In the case of a hospitalized child, that inpatient hospitalization continues to be the least restrictive setting for providing treatment and services that may render the child competent to proceed.

(B) If at the end of 360 days a child so confined remains incompetent to proceed, and remains likely to attain competence in the reasonably foreseeable future, the Division shall lift the hospitalization, detention, or shelter care order and may order that the child receive on an outpatient basis such further treatment and services as may render the child competent in the reasonably foreseeable future.

(8) If the Division at any time determines that the child receiving treatment and services under this subsection is unlikely to attain competence in the reasonably foreseeable future, the Division shall suspend further proceedings and the Corporation Counsel shall, where appropriate, initiate commitment proceedings pursuant to Chapter 5 or 11 of Title 21.

(9) Nothing in this subsection shall prevent the Corporation Counsel from initiating commitment proceedings pursuant to Chapter 5 or 11 of Title 21 at any time.

(d) The results of an examination under this section shall be admissible in a transfer hearing pursuant to section 16-2307, in a dispositional hearing under this subchapter, or in a commitment proceeding under Chapter 5 or 11 of Title 21. The results of examination may be admitted into evidence at a factfinding hearing to aid the Division in determining a material allegation of the petition relating to the child's mental or physical condition, but not for the purpose of establishing a defense of insanity.

(e)(1) At any time following the filing of a petition which alleges a neglected child as defined by D.C. Official Code, section 16-2301(9)(C) the Division may, on its own motion or the motion of any party, for good cause shown, order the mental or physical examination of the parent, guardian, or custodian of the child whose ability to care for the child is at issue.

(2) Following an adjudication that a child is neglected, the Division may, on its own motion or the motion of any party, order a mental or physical examination of the parent, guardian, or custodian of the child whose ability to care for the child is at issue.

(3) The Division may order additional mental examinations to be performed by independent experts upon a showing by any party that a prior examination is inadequate.

(4) The results of the mental or physical examination shall not be admissible evidence in the factfinding hearing unless the allegations contained in the petition set forth facts which support a petition pursuant to D.C. Official Code, section 16-2301(9)(C).

(5) The results of the mental or physical examination shall be admissible at a dispositional hearing.

(6) The results of the mental or physical examination shall not be admissible as evidence in any criminal proceedings.

(f) Upon request of the Corporation Counsel, or his or her designee, the Division shall hold a hearing to

determine whether there is probable cause to believe that a victim or eyewitness to a delinquent act alleged to have been committed by the respondent may have been put at risk for the HIV/AIDS virus. If the Division finds there is probable cause that a victim or eyewitness has been put at risk for the HIV/AIDS virus as a result of witnessing or being the victim of the delinquent act alleged to have been committed by the respondent, the Division shall order that the respondent be tested for the HIV/AIDS virus. The results of the child's HIV/AIDS testing shall be presented to the Corporation Counsel, or his or her designee, who shall provide the information to the respondent and to the victim or eyewitness to a delinquent act. The victim or eyewitness may only disclose the respondent's identity to a doctor or counselor.

(Dec. 23, 1963, 77 Stat. 591, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 533, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 405, 24 DCR 3341; Mar. 5, 1981, D.C. Law 3-140, § 2, 3, 27 DCR 4558; Mar. 24, 1998, D.C. Law 12-81, § 10(bb), 45 DCR 745; Mar. 17, 2005, D.C. Law 15-261, §§ 202(c), 602(b), 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2315.

1973 Ed., § 16-2315.

Effect of Amendments

D.C. Law 15-261, in subsec. (a), designated the existing text as par. (1), and added pars. (2) and (3); in subsec. (b), substituted "psychiatrist or qualified psychologist" for "psychiatrist" in par. (2), and rewrote par. (3); added subsec. (b-1); rewrote subsec. (c); and added subsec. (f). Prior to amendment, par. (3) of subsec. (b) and subsec. (c) read as follows:

"(3) Hospitalization for an examination shall be for a period of not more than twenty-one (21) days, except that the Division may, for good cause shown, grant extensions which may not exceed twenty-one (21) days in the aggregate.

"(c)(1) If as a result of mental examination the Division determines that a child alleged to be delinquent is incompetent to participate in proceedings under the petition by reason of mental illness or at least moderate mental retardation as defined in section 7-1301.03(2), it shall, except as provided in subsection (2), suspend further proceedings and the Corporation Counsel shall initiate commitment proceedings pursuant to Chapter 5 or 11 of Title 21.

"(2) If a motion for transfer for criminal prosecution has been filed pursuant to section 16-2307 and the Division determines that a child alleged to be delinquent is incompetent to participate in the transfer proceedings by reason of mental illness, it shall suspend further proceedings and order the child confined to a suitable hospital or facility for the mentally ill until his competency is restored. If prior to the time the child reaches the age of 21 it appears that he will not regain his competency to participate in the proceedings, the Corporation Counsel shall initiate commitment proceedings pursuant to Chapter 5 of Title 21.

"(3) If, as a result of mental examination, the Division determines that a child alleged to be in need of supervision is incompetent to participate in proceedings under the petition by reason of mental illness or at least moderate mental retardation as defined in section 7-1301.03(2), it shall suspend further proceedings. If proceedings are suspended, the Corporation Counsel may initiate commitment proceedings pursuant to chapter 5 or 11 of title 21."

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

Law 3-140, the "Inpatient Health Examination of Youth Act of 1980," was introduced in Council and assigned Bill No. 3-220, which was referred to the Committee on Human Resources. The Bill was adopted on first and second readings on July 29, 1980, and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-261 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

§ 16-2316. CONDUCT OF HEARINGS; EVIDENCE.

(a) The Division shall, without a jury, hear and adjudicate cases involving delinquency, need of supervision, or neglect. The Corporation Counsel shall present evidence in support of all petitions arising under this subchapter and otherwise represent the District of Columbia in all proceedings.

(b) Evidence which is competent, material, and relevant shall be admissible at factfinding hearings. Evidence which is material and relevant shall be admissible at detention hearings, transfer hearings under section 16-2307, and dispositional hearings.

(c) Where the petition alleges a child is a neglected child by reason of abuse, evidence of illness or injury

to a child who was in the custody of his or her parent, guardian, or custodian for which the parent, guardian or custodian can give no satisfactory explanation shall be sufficient to justify an inference of neglect.

(d)(1) Where the petition alleges a child is abandoned as referred to in section 16-2301(9)(A), as amended by this act, the following evidence shall be sufficient to justify an inference of neglect:

(A) the child is a foundling whose parents have made no effort to maintain a parental relationship with the child and reasonable efforts have been made to identify the child and to locate the parents for a period of at least four (4) weeks since the child was found;

(B) the child's parent gave a false identity at the time of the child's birth, since then has made no effort to maintain a parental relationship with the child and reasonable efforts have been made to locate the parent for a period of at least four (4) weeks since his or her disappearance;

(C) the child's parent, guardian or custodian is known but has abandoned the child in that he or she has made no reasonable effort to maintain a parental relationship with the child for a period of at least four (4) months; or

(D) the child has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child was ready for discharge from the hospital, and the parent, guardian, or custodian of the child did not undertake any action or make any effort to maintain a parental, guardianship, or custodial relationship or contact with the child.

(2) It shall not be necessary to prove that the parent, guardian or custodian intended to abandon the child or that he or she is now dead. However, if the judge is satisfied that there was a satisfactory explanation for the abandonment he or she need not enter a finding of neglect.

(e)(1) All hearings and proceedings under this subchapter shall be recorded by appropriate means.

(2) Except in hearings to declare an adult in contempt of court, the general public shall be excluded from hearings arising under this subchapter.

(3) Except as provided in paragraph (4) of this subsection, only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court of the District of Columbia, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of the child's family involved in the proceedings.

(4) In cases involving delinquency proceedings, the victims and eyewitnesses and the immediate family members and custodians of the victims and eyewitnesses shall have a right to attend transfer, factfinding, disposition, and post-disposition hearings, subject to the rule on witnesses. Immediate family members and custodians of the victims and eyewitnesses shall have a right to be present during the victims' or eyewitnesses' testimony.

(5) Any person who by virtue of this subsection attends a transfer, factfinding, disposition, or post-disposition hearing shall be bound by the confidentiality requirements of sections 16-2331, 16-2332, and 16-2333, and shall be informed by the Division of these confidentiality requirements and the penalties for their violation as set out in section 16-2336.

(f) If the Division finds that it is in the best interest of the child, it may temporarily exclude him from any proceeding except a factfinding hearing. If the petition alleges neglect, the child may also be temporarily excluded from a factfinding hearing. In any case, counsel for the child may not be excluded.

(Dec. 23, 1963, 77 Stat. 591, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 533, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(e), 24 DCR 3341; Apr. 30, 1988, D.C. Law 7-104, § 4(o), 35 DCR 147; June 8, 1990, D.C. Law 8-134, § 2(c), 37 DCR 2613; Feb. 5, 1994, D.C. Law 10-68, § 20(d), 40 DCR 6311; Mar. 13, 2004, D.C. Law 15-105, §§ 10(c), 34(a), 56, 51 DCR 881; Mar. 17, 2005, D.C. Law 15-261, § 602(c), 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2316.

1973 Ed., § 16-2316.

Effect of Amendments

D.C. Law 15-105, in subsec. (d), (d)(1), (d)(1)(D), validated a previously made technical correction.

D.C. Law 15-261 rewrote subsec. (e) which had read:

"(e) All hearings and proceedings under this subchapter shall be recorded by appropriate means. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings arising under this subchapter. Only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information

identifying the child or members of his family involved in the proceedings."

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 8-134, see Historical and Statutory Notes following § 16-2301.

D.C. Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

For Law 15-105, see notes following § 16-1005.

For Law 15-261, see notes following § 16-2301.

References in Text

"This act," referred to in the introductory paragraph of subsection (d)(1), is the Act of September 23, 1977, D.C. Law 2-22 which is codified as § 4-1321.01 et seq., § 4-1301.02 et seq., and § 16-2301 et seq.

§ 16-2316.01. SCHEDULING OF FACT FINDING AND DISPOSITIONAL HEARINGS FOR CHILDREN ALLEGED TO BE NEGLECTED.

(a) Except as provided in subsection (b)(3) of this section, a fact finding hearing for a child alleged to be neglected shall be combined with the dispositional hearing.

(b) The fact finding and dispositional hearing for a child alleged to be neglected shall be held within the time limits provided in this subsection.

(1) The fact finding and dispositional hearing shall be held within 45 days after the child's entry into foster care or, if the child is not in foster care, within 45 days of the filing of the petition.

(2) Upon motion of any party, for good cause shown, the fact finding and dispositional hearing of a child alleged to be neglected may be continued, and, as applicable, the child shall remain in shelter care, for up to an additional 30 days.

(3) Following completion of the fact finding phase, if the child is found to be neglected, upon motion of any party, for good cause shown, the dispositional phase may be continued and, as applicable, the child shall remain in shelter care for up to an additional 15 days.

(4) In determining whether good cause has been shown as required by paragraphs (2) and (3) of this subsection, the Division shall take into account, among other appropriate matters, and shall state its findings on the record, whether:

(A) There has been or will be a delay resulting from other proceedings concerning the child, including, but not limited to, examinations to determine the mental competency or physical capacity of the child or of a parent, guardian, or custodian, or from any interlocutory or expedited appeal;

(B) Any essential witness is absent or unavailable, meaning that his or her whereabouts are unknown or cannot be determined by due diligence or that his or her presence for the hearing cannot be obtained by due diligence; or any essential witness is otherwise unavailable;

(C) Despite the exercise of due diligence, necessary medical examinations, drug analysis, or other scientific tests have not been completed; or

(D) The best interests and safety of the child are best served by continuing the period of shelter care.

(c) Notwithstanding subsection (b)(2) and (3) of this section, the dispositional hearing for a child found to be neglected shall be held within 45 days after the child's entry into foster care, or if the child is not in foster care, within 45 days of the filing of the petition.

(Dec. 23, 1963, 77 Stat. 590, Pub. L. 88-241, as added June 27, 2000, D.C. Law 13-136, § 301(d)(2), 47 DCR 2850.)

HISTORICAL AND STATUTORY NOTES

Temporary Amendments of Section

Section 3 of D.C. Law 13-193 amended this section to set timelines for factfinding and dispositional hearings.

Section 6 (b) of D.C. Law 13-193 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 3(a) of the Adoption and Safe Families Compliance Emergency Amendment Act of 1999 (D.C. Act 13-383, July 24, 2000, 47 DCR 6700).

For temporary (90 day) amendment of section, see § 3(a) of the Adoption and Safe Families Compliance Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-451, November 7, 2000, 47 DCR 9399).

For temporary (90 day) amendment of section, see § 3(a) of Adoption and Safe Families Compliance Emergency Amendment Act of 2001 (D.C. Act 14-65, June 6, 2001, 48 DCR 5721).

Legislative History of Laws

For Law 13-136, see notes following § 16-2301.

§ 16-2317. HEARINGS, FINDINGS; DISMISSAL.

(a) Except as otherwise provided by statute or court rule, all motions shall be heard at the time of the factfinding hearing.

(b) After a factfinding hearing on the allegations in the petition, the Division shall make and file written findings in all cases as to the truth of the allegations, and in neglect cases, he shall also make and file written findings as to whether the child is neglected. The Court may not make a finding of neglect based solely on a finding that a child is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth. If the Division finds that --

(1) in the case of a delinquency petition, that the allegations have not been established by proof beyond a reasonable doubt; or

(2) in the case of a need of supervision or neglect petition, that the allegations have not been established by the preponderance of the evidence, the Division shall dismiss the petition and order the child released from any detention or shelter care or other restriction previously ordered. If the proceedings are not terminated after the factfinding hearing, the Division shall review the need for detention or shelter care of the child.

(c) If the Division finds in a factfinding hearing that --

(1) the allegations in a delinquency petition have been established by proof beyond a reasonable doubt; or

(2) the allegations in a need of supervision or neglect petition have been established by the preponderance of the evidence, the Division, after giving the notice required by subsection (e) of this section, shall proceed to hold a dispositional hearing. The Division may postpone a dispositional hearing to await the predisposition study and report of the Director of Social Services (in delinquency or need of supervision cases) or of the Director of the Child and Family Services Agency (in neglect cases) as required by section 16- 2319. There shall be a rebuttable presumption that a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases.

(d)(1) If the Division finds that the child is not in need of care and rehabilitation, it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered.

(2) Determinations of whether a child is in need of care or rehabilitation may only be made at or after the dispositional hearing, except that the Division may dismiss the petition and terminate proceedings, after giving the Corporation Counsel a reasonable opportunity to initiate commitment proceedings pursuant to Chapter 5 or 11 of Title 21, if the Division finds that the respondent is incompetent to proceed and that there is not a substantial probability that the respondent will attain competency in the reasonably foreseeable future. If the Division dismisses the petition based on the respondent's incompetence to proceed, the dismissal shall be without prejudice to the government to refile if the respondent attains competence.

(3) To overcome the presumption of a need for care or rehabilitation in subsection (c) of this section, the Division must find by clear and convincing evidence at the dispositional hearing that the child is not in need of care or rehabilitation before it may terminate proceedings.

(4) The fact that a child is receiving care or rehabilitation in another case shall not be the only grounds for dismissal.

(5) In determining whether a child is in need of care and rehabilitation, the Division may consider the child's failure to appear at a scheduled hearing and shall:

(A) Consider any victim impact statement submitted to the Division;

(B) Hear from any eyewitnesses and victims, or the immediate family members of any

eyewitnesses or victims when the eyewitness or victim is a child or when the eyewitness or victim is deceased or incapacitated, that wish to be heard and appear before the court; and

(C) Consider if the dismissal of the case is in the interest of the public welfare and the protection of the public security.

(e) The Division shall give prompt notice of any dispositional hearing as follows:

(1) In delinquency and need of supervision cases, to the child, his spouse (if any), and his parent, guardian, or custodian.

(2) In neglect cases, to the child and to the parent, guardian, or custodian named in the petition if he can be found.

(f) The Corporation Counsel shall give prompt notice, if practicable, of any disposition and post-disposition hearings to the victim, or the immediate family members or caretakers of the victim, or their duly authorized attorney, when the victim is a child or when the victim is deceased or incapacitated.

(July 29, 1970, 84 Stat. 534, Pub. L. 91-358, title I, § 121(a); Feb. 5, 1994, D.C. Law 10-68, § 20(e), 40 DCR 6311; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(6), 48 DCR 2043; Oct. 19, 2002, D.C. Law 14-206, § 3(b), 49 DCR 7815; Mar. 17, 2005, D.C. Law 15-261, §§ 502(b), 602(d), 52 DCR 1188; Apr. 24, 2007, D.C. Law 16-306, § 206(b), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2317.

1973 Ed., § 16-2317.

Effect of Amendments

D.C. Law 13-277, in subsec. (c)(2), added "(in delinquency or need of supervision cases) or of the Director of the Child and Family Services Agency (in neglect cases) as" following "Director of Social Services".

D.C. Law 14-206, in subsec. (b), inserted "The Court may not make a finding of neglect based solely on a finding that a child is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth."

D.C. Law 15-261, in subsec. (c)(2), substituted "There shall be a rebuttable presumption that a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases." for "In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases."; rewrote subsec. (d); and added subsec. (f). Prior to amendment, subsec. (d) read as follows:

"(d) If the Division finds that the child is not in need of care or rehabilitation it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered."

D.C. Law 16-306, in subsec. (d)(5), substituted "Division may consider the child's failure to appear at a scheduled hearing and shall" for "Division shall".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b), (c) of the Juvenile Justice Temporary Act of 2004 (D.C. Law 15-223, March 16, 2005, law notification 52 DCR 3549).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(b), (c), of the Juvenile Justice Emergency Act of 2004 (D.C. Act 15-497, July 19, 2004, 51 DCR 7844).

For temporary (90 day) amendment of section, see § 2(b), (c) of Juvenile Justice Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-547, October 12, 2004, 51 DCR 9844).

For temporary (90 day) amendment of section, see § 2(b), (c) of Juvenile Justice Second Congressional Review Emergency Act of 2004 (D.C. Act 15-727, January 19, 2005, 52 DCR 1952).

For temporary (90 day) amendment of section, see § 206(b) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 206(b) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 206(b) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 206(b) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 16-2316.

For D.C. Law 13-277, see notes following § 16-2301.

For D.C. Law 14-206, see notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

For Law 16-306, see notes following § 16-1001.

§ 16-2318. ORDER OF ADJUDICATION NONCRIMINAL.

A consent decree, order of adjudication, or order of disposition in a proceeding under this subchapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction, except the revocation of a motor vehicle operator's permit or privilege in accordance with [§ 50-1403.02], nor does it operate to disqualify a child in any future civil service examination, appointment or application for public service examination, or appointment or application for public service in either the Government of the United States or of the District of Columbia.

(July 29, 1970, 84 Stat. 534, Pub. L. 91-358, title I, § 121(a); Mar. 16, 1989, D.C. Law 7-222, § 3, 36 DCR 570.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2318.

1973 Ed., § 16-2318.

Legislative History of Laws

Law 7-222, the "Motor Vehicle Operator's Permit Revocation Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-489, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 29, 1988, and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-297 and transmitted to both Houses of Congress for its review.

§ 16-2319. PREDISPOSITION STUDY AND REPORT.

(a) After a motion for transfer has been filed, or after the Division has made findings pursuant to section 16-2317(c) sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services or a qualified agency designated by the Division concerning the child, the child's family, the child's environment, and other matters relevant to the need for treatment or disposition of the case. The predisposition report shall include, and take into consideration, any victim impact statement submitted by the victim and the victim's immediate family members, the Director of Social Services, or by the Corporation Counsel. Except in connection with a hearing on a transfer motion, no predisposition study or report shall be furnished to or considered by the Division prior to completion of the factfinding hearing.

(b) The social investigation and plan for the family prepared pursuant to section 109 of the Prevention of Child Abuse and Neglect Act of 1977 shall satisfy the requirements of subsection (a) of this section. Such investigation and plan shall be made available to all counsel in the proceedings at least five (5) days prior to the date of trial; provided, however, that the investigation and plan shall not be furnished to or considered by the court prior to the completion of the fact-finding hearing.

(c)(1) The report to the Division in neglect cases shall include, but not be limited to, the following information:

(A) the specific harms intervention is designed to alleviate;

(B) the plans for alleviating these harms including specific services, the proposed providers of the services recommended and the actions the parent, guardian, or custodian should take to alleviate these harms, including but not limited to parenting classes and family counseling if the Division orders either service.

(C) the estimated time in which the goals of intervention may be achieved or in which it will be known that the goals may not be achieved; and

(D) the criteria to be used to determine that intervention is no longer necessary; and,

(2) If the removal of the child from his parent, guardian, or custodian is recommended, the report shall also include:

- (A) the recommended type of placement;
- (B) the reasons why the child cannot be protected in his or her home;
- (C) the likely harm the child will suffer as a result of the separation from his or her parent, guardian, or custodian and recommended steps to be taken to minimize this harm; and
- (D) the plans for maintaining contact between the parent and child through visitation rights in order to maximize the parent-child relationship consistent with the well-being of the child.

(d) When a child has been adjudicated delinquent and a dispositional order has been entered by the Division under sections 16-2317 and 16-2320 transferring legal custody of a child to the custody of the Youth Services Administration, the Youth Services Administration shall conduct an evaluation of the child to determine the appropriate services and to develop an individualized treatment plan for the child.

(e) The Youth Services Administration shall examine the child and investigate all pertinent circumstances in the child's background that will contribute to the development of the individualized treatment plan.

(f) The Youth Services Administration shall complete an initial assessment of the child within 3 days of taking legal custody of the child and receipt of the social file from the Director of Court Social Services and shall develop the individualized treatment plan within 14 days of completing the initial assessment of the child, unless a longer diagnostic phase is needed for the child and is justified in writing in the child's initial assessment. If the Youth Services Administration does not receive the social file within 7 days of the disposition order, the Division shall order the Director of Court Social Services to immediately produce the social file.

(g) The Division may, on its own motion or the motion of any party, for good cause shown, extend the time periods set forth in subsection (f) of this section for completion of the initial assessment and the individualized treatment plan.

(July 29, 1970, 84 Stat. 535, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(f), title IV, § 406, 24 DCR 3341; Mar. 16, 1995, D.C. Law 10-227, § 3(c), 42 DCR 4; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(7), 48 DCR 2043; Mar. 17, 2005, D.C. Law 15-261, §§ 602(e), 902, 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2319.

1973 Ed., § 16-2319.

Effect of Amendments

D.C. Law 13-277, in subsec. (a), added "(in delinquency or need of supervision cases) or the Director of the Child and Family Services Agency (in neglect cases)" following "Director of Social Services".

D.C. Law 15-261 rewrote subsec. (a) and added subsecs. (d) to (g). Prior to amendment, subsec. (a) read as follows:

"(a) After a motion for transfer has been filed, or after the Division has made findings pursuant to subsection (c) of section 16-2317 sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services (in delinquency or need of supervision cases) or the Director of the Child and Family Services Agency (in neglect cases) or a qualified agency designated by the Division concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. Except in connection with a hearing on a transfer motion, no predisposition study or report shall be furnished to or considered by the Division prior to completion of the factfinding hearing."

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 10-227, see Historical and Statutory Notes following § 16-2301.

For D.C. Law 13-277, see notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

References in Text

Section 109 of the Prevention of Child Abuse and Neglect Act of 1977, referred to in the first sentence in subsection (b) of this section, is § 109 of the Act of September 23, 1977, D.C. Law 2-22 codified as § 4-1321.01 et seq., 4-1301.02 et seq., and 16-2301 et seq.

§ 16-2320. DISPOSITION OF CHILD WHO IS NEGLECTED, DELINQUENT, OR IN NEED OF SUPERVISION.

(a) If a child is found to be neglected, the Division exercising juvenile jurisdiction shall also have jurisdiction over any natural person who is a parent or caretaker of the child to secure the parent or caretaker's full cooperation and assistance in the entire rehabilitative process and may order any of the following dispositions which will be in the best interest of the child:

(1) Permit the child to remain with his or her parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including, but not limited to, the following services for the child and his or her parent, guardian, or other custodian:

- (A) medical, psychiatric, or other treatment at an appropriate facility under protective supervision;
- (B) parenting classes; and
- (C) family counseling.

(2) Place the child under protective supervision.

(3) Transfer legal custody to any of the following-

- (A) a public agency responsible for the care of neglected children;
- (B) a child placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Mayor of the District of Columbia to receive and provide care for the child; or
- (C) a relative or other individual who is found by the Division to be qualified to receive and care for the child except that no child shall be ordered placed outside his or her home unless the Division finds the child cannot be protected in the home and there is an available placement likely to be less damaging to the child than the child's own home.

It shall be presumed that it is generally preferable to leave a child in his or her own home.

(4) Commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient basis if, at the dispositional hearing provided for in section 16-2317, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric, or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review, the original order is affirmed, the child may petition for review thereafter every six months.

(5) The Division may make such other disposition as is not prohibited by law and as the Division deems to be in the best interests of the child. The Division shall have the authority to (i) order any public agency of the District of Columbia to provide any service the Division determines is needed and which is within such agency's legal authority and (ii) order any private agency receiving public funds for services to families or children to provide any such services when the Division deems it is in the best interests of the child and within the scope of the legal obligations of the agency.

(6) Terminate the parent and child relationship for the purpose of seeking an adoptive placement for the child pursuant to subchapter III of this chapter.

(b) Unless a child found neglected is also found to be delinquent, he shall not be committed to, or confined in, an institution for delinquent children.

(c) If a child is found to be delinquent or in need of supervision, the Division exercising juvenile jurisdiction shall also have jurisdiction over any natural person who is a parent or caretaker of the child to secure the parent or caretaker's full cooperation and assistance in the entire rehabilitative process and may order any of the following dispositions which will be in the best interest of the child:

(1) Any disposition authorized by subsection (a) of this section (other than paragraphs (3)(A) and (5) thereof).

(2) Transfer of legal custody to a public agency for the care of delinquent children.

(3) Probation under such conditions and limitations as the Division may prescribe, including but not limited to the completion of parenting classes or family counseling in cases where either or both was ordered by the Division.

(c-1) The Division shall order any child between the ages of 14 and 18 years who is found to be delinquent or in need of supervision to perform a minimum of 90 hours of community service with an agency of the District government or a non-profit or community service organization in accordance with section 24-904(a).

(c-2) When determining what disposition shall be ordered under subsection (c) of this section, the Division shall consider any victim impact statement submitted to the Division and the victim, or the immediate family members of the victim when the victim is a child or when the victim is deceased or incapacitated, shall have the right to make a statement at the disposition hearing. The absence of the victim at disposition shall not preclude the court from holding the hearing.

(c-3) When determining what disposition shall be ordered under subsection (a) of this section, the Division may consider a child's failure to appear at a scheduled hearing.

(d) No child found in need of supervision, as defined by section 16-2301(8), unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children, but shall be released to the child's parent, guardian, or custodian, unless the return of the child will result in placement in, or return to, an abusive situation, or the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child. If the return of the child will result in placement in, or return to, an abusive situation, or if the child's parent, guardian, or custodian is unwilling or unable to care for or supervise the child, the Child and Family Services Agency shall open a neglect investigation.

(e) No child who is found to be delinquent, in need of supervision, or neglected shall be committed to a penal or correctional institution for adult offenders.

(f) In its dispositional order for a child adjudicated neglected, the Division shall:

(1) Address the matters set forth in section 16-2319(c) by accepting, modifying, or rejecting the plan submitted pursuant thereto. If the plan is rejected or major modifications are made, the agency charged with service responsibility shall within 30 days submit to the Division and to all parties a plan which addresses the matters delineated in section 16-2319(b). The agency responsible for providing the services shall promptly report to the Division and all parties if it is unable for whatever reasons to provide the services delineated in the plan;

(2) Include a determination of whether:

(A) Reasonable efforts were made to prevent or eliminate the need for removal, or, in the alternative, that the child's removal from the home is necessary regardless of any services that could be provided to the child or the child's family; and

(B) Continuation of the child in the child's home would be contrary to the welfare of the child.

(g) The department or agency to whom the legal custody of a child has been transferred pursuant to subsection (a) of this section shall give notice, which may be oral, of any change in the placement of the child to the child's parent, the child's guardian ad litem and the child's foster parent at least ten (10) days prior to the change in placement, except that in the case of an emergency notice shall be given no later than twenty-four (24) hours (excluding Saturdays, Sundays and legal holidays) after the change. Notice of a change in placement need not be given to the parent when the judge has determined that visitation would be detrimental to the child or the judge has determined that the parent should not be apprised of the child's location. Upon the request of any person entitled to notice under this subsection the department or agency having legal custody of the child shall afford an opportunity for an administrative hearing to review the proposed change in the placement of the child. Except in the case of an emergency, the hearing shall be held and a decision rendered prior to a change in the placement.

(h) Any child who is found to be delinquent for violation of the provisions of the District of Columbia Uniform Controlled Substances Act of 1981 may, in addition to any other disposition ordered by the court for his supervision, care, and rehabilitation, be ordered to attend classes conducted by the Mayor pursuant to section 48-905.04(c).

(July 29, 1970, 84 Stat. 535, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 407, 24 DCR 3341; Aug. 5, 1981, D.C. Law 4-29, § 604(b)(3), 28 DCR 3081; Apr. 30, 1988, D.C. Law 7-104, § 4(p), 35 DCR 147; May 10, 1989, D.C. Law 7-231, § 26, 36 DCR 492; Jan. 31, 1990, D.C. Law 8-61, § 3, 36 DCR 5798; May 15, 1993, D.C. Law 9-272, § 102, 40 DCR 7967; Mar. 16, 1995, D.C. Law 10-227, § 3(c), 42 DCR 4; Apr. 9 1997, D.C. Law 11-255, § 18(g), 44 DCR 1271; June 27, 2000, D.C. Law 13-136, § 301(e), 47 DCR 2850; Mar. 17, 2005, D.C. Law 15-261, §§ 602(f), 702, 52 DCR 1188; Apr. 24, 2007, D.C. Law 16-306, § 206(c), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2320.

1973 Ed., § 16-2320.

Effect of Amendments

D.C. Law 13-136 rewrote subsec. (f), which previously read:

"In its dispositional order for a child adjudicated neglected the Division shall address the matters set forth in section 16-2319(c) by accepting, modifying, or rejecting the plan submitted pursuant thereto. If the plan is rejected or major modifications are made, the agency charged with service responsibility shall within thirty (30) days submit to the Division and to all parties a plan which addresses the matters delineated in section 16-2319(b). The agency responsible for providing the services shall promptly report to the Division and all parties if it is unable for whatever reasons to provide the services delineated in the plan."

D.C. Law 15-261 added subsec. (c-2); and rewrote subsec. (d) which had read as follows:

"(d) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children; except that if such child has previously been found in need of supervision and the Division, after hearing, so finds, the Division may specify that such child be committed to

or placed in an institution or facility for delinquent children."

D.C. Law 16-306 added subsec. (c-3).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 301(d) of Adoption and Safe Families Temporary Amendment Act of 1999 (D.C. Law 13-56, March 7, 2000, law notification 47 DCR 1978).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 301(d) of the Adoption and Safe Families Emergency Amendment Act of 1999 (D.C. Act 13-117, July 28, 1999, 46 DCR 6558).

For temporary (90-day) amendment of section, see § 301(d) of the Adoption and Safe Families Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13- 178, November 2, 1999, 46 DCR 9714).

For temporary (90-day) amendment of section, see § 301(d) of the Adoption and Safe Families Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-240, January 11, 2000, 47 DCR 556).

For temporary (90 day) amendment of section, see § 206(c) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) amendment of section, see § 206(c) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) amendment of section, see § 206(c) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) amendment of section, see § 206(c) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

Law 4-29, the "District of Columbia Uniform Controlled Substances Act of 1981," was introduced in Council and assigned Bill No. 4-123, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1981, and May 19, 1981, respectively. Signed by the Mayor on June 9, 1981, it was assigned Act No. 4-51 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 16-2316.

Law 7-231, the "Technical Amendments Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988, and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

Law 8-61, the "Youth Offender Community Service Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-138, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 27, 1989, and July 11, 1989, respectively. Signed by the Mayor on August 1, 1989, it was assigned Act No. 8-84 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 9-272, see Historical and Statutory Notes following § 16-2307.

For legislative history of D.C. Law 10-227, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 16-2309.

For Law 13-136, see notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

For Law 16-306, see notes following § 16-1001.

References in Text

The "District of Columbia Uniform Controlled Substances Act of 1981," referred to in subsection (h), is D.C. Law 4-29. Section 505 of the Act is codified at § 48-905.05; however, the reference to § 505(c) of the Act in subsection (h) should probably be to § 504(c) of the Act which is codified at § 48-905.04.

§ 16-2320.01. RESTITUTION.

(a)(1) Upon request of the Corporation Counsel, the victim, or on its own motion, the Division may enter a judgment of restitution in any case in which the court finds a child has committed a delinquent act and during or as a result of the commission of that delinquent act has:

(A) Stolen, damaged, destroyed, converted, unlawfully obtained, or substantially decreased the value of the property of another;

- (B) Inflicted personal injury on another, requiring the injured person to incur medical, dental, hospital, funeral, or burial expenses, or lost wages; or
 - (C) Caused the victim of the delinquent act to incur reasonable counseling or other mental health expenses from a licensed health care provider if the delinquent act involved personal injury, child or sexual abuse, robbery, or burglary.
- (2) The Division may order the parent or guardian of a child, a child, or both to make restitution to:
- (A) The victim;
 - (B) Any governmental entity;
 - (C) A third-party payor, including an insurer, that has made payment to the victim to compensate the victim for a property loss under paragraph (1)(A) of this subsection or pecuniary loss under paragraph (1)(B) or (C) of this subsection.
- (3) Payment of restitution to a victim under this section has priority over payments of restitution to a third-party payor or to any governmental entity.
- (4) If the victim has been compensated for the victim's loss by a third-party payor, the Division may order restitution payments to the third-party payor in the amount that the third-party payor compensated the victim.
- (b) The Division may order the child to make restitution directly to the victim, governmental entity, or third-party payor after consideration of the age, circumstances, and financial ability of the child to pay. The Division may order the parent or guardian to make restitution directly to the victim, governmental entity, or third-party payor after consideration of the parent or guardian's financial ability to pay.
- (c)(1) A judgment of restitution under this section may not exceed:
- (A) As to property stolen, destroyed, converted, or unlawfully obtained, the lesser of the fair market value of the property or \$10,000;
 - (B) As to property damaged, or substantially decreased in value, the lesser of the amount of damage or the decrease in value of the property, not to exceed the fair market value of the property, or \$10,000;
 - (C) As to personal injuries inflicted, the lesser of the actual medical, dental, hospital, funeral, and burial expenses incurred by the injured person as a result of the injury or \$10,000; or
 - (D) As to counseling or mental health expenses, the lesser of the actual expenses incurred by the injured person as a result of the incident or \$10,000.
- (2) As an absolute limit in each case against any one child, his or her parents or guardians, or both, a judgment rendered under this section may not exceed \$10,000 for all acts arising out of a single incident.
- (d) A restitution hearing to determine the liability of a parent or guardian, a child, or both, shall be held within 30 days after the disposition hearing and may be extended by the Division for good cause. A hearing under this section may be held as part of a factfinding or disposition hearing for the child. A judgment of restitution against a parent or guardian may not be entered unless the parent or guardian has been afforded a reasonable opportunity to be heard and to present appropriate evidence in the parent or guardian's behalf.
- (e) In a restitution hearing, a written statement or bill for medical, dental, hospital, funeral, or burial expenses, or repair and replacement of property shall be prima facie evidence that the amount indicated on the written statement or bill represents a fair and reasonable charge for the services or materials provided. The burden of proving that the amount indicated on the written statement or bill is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.
- (f) Upon request of the Corporation Counsel or the recipient of a judgment of restitution, the Division may enforce the judgment for restitution under this section in the same manner that a monetary judgment is enforced by the Superior Court of the District of Columbia under Title 15 and applicable court rules.
- (g) The Director of Social Services shall be responsible for monitoring the collection and disbursement of restitution payments when the judgment of restitution provides that restitution is to be made in periodic or installment payments. The Director of Social Services shall inform the Division of the progress or status of the restitution payments.
- (h) A judgment of restitution under this section shall not preclude a civil action to recover damages from the child, parent, or guardian. A civil verdict shall be reduced by the amount paid under the judgment of restitution. A judgment of restitution may be filed under seal in any civil case.
- (i) If at the restitution hearing the Division finds that a child is financially unable to pay restitution pursuant to subsection (b) of this section, the Division may order the child to perform community service or some other non-monetary service of equivalent value in lieu thereof. If at the restitution hearing the Division finds that a parent or guardian is financially unable to pay restitution pursuant to subsection (b) of this section, the Division may order the parent or guardian to perform community service or some other non-monetary

service of equivalent value in lieu thereof.

(j) When entering a restitution order, the court shall include the restitution conditions both in the disposition order and in a separate judgement of restitution which shall be filed in a special proceedings case. An order requiring an adult to pay a judgment for restitution shall be filed in a special proceedings case.

(k) An order of restitution requiring a parent or guardian, a child, or both to pay restitution constitutes a judgment and lien against all property of the person or persons required to pay for the amount they are obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property.

(l) A judgment of restitution may be enforced by the Attorney General for the District of Columbia, a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

(m) A judgment for restitution that is filed in a special proceedings case shall contain the following information:

(1) The amount of the restitution; and

(2) The terms of the restitution, including the length of time in which restitution payments will be made and the amount of the installment payments.

(n) The court shall provide each victim in a juvenile case with a notarized and sealed copy of the Order of Restitution or Reparation.

(o) In addition to the information that is included in a judgment for restitution filed in a special proceedings case, the Division shall provide the following information in a supplemental information form attached to the order. This information shall be kept confidential except by order of the Division:

(1) The full name, address, telephone number, and social security number of the restitution payer or person who is ordered to pay the restitution; and

(2) The full name, address, and telephone number of the recipient of the restitution.

(p) All restitution payments shall be paid to the Superior Court. The payer shall receive a receipt for the payment. If the restitution payment is mailed, a receipt will be returned only if the payer encloses a self-addressed stamped envelope.

(q) The court shall disburse the restitution payments to the recipient and make appropriate court records.

(Mar. 17, 2005, D.C. Law 15-261, § 602(g), 52 DCR 1188; Mar. 2, 2007, D.C. Law 16-191, § 40, 53 DCR 6794; June 3, 2011, D.C. Law 18-377, § 6(a), 58 DCR 1174.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-191, in subsec. (c)(1)(C), validated a previously made technical correction.

D.C. Law 18-377, in subsec. (g), added the second sentence; and added subsecs. (j) to (q).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 506(a) of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) amendment of section, see § 506(a) of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

Legislative History of Laws

For Law 15-261, see notes following § 16-2301.

For Law 16-191, see notes following § 16-910.

For history of Law 18-377, see notes under § 16-711.01.

§ 16-2321. DISPOSITION OF CHILD WITH MENTAL ILLNESS OR A SUBSTANTIAL INTELLECTUAL DISABILITY.

(a) If no previous examination has been made under section 16-2315 and the Division, after a factfinding but before a dispositional hearing, has reason to believe that a child has a mental illness or a substantial intellectual disability, it may order an examination as provided in section 16-2315.

(b) If as a result of the examination the child is found to have a mental illness or a substantial intellectual disability, the Division may, in lieu of other disposition, direct the appropriate authority to initiate commitment proceedings under Chapter 5 or 11 of Title 21. The Division may order the child detained in suitable facilities pending commitment proceedings.

(c) If the examination does not indicate that commitment proceedings should be initiated or if the proceedings do not result in commitment, the Division shall proceed to disposition pursuant to this subchapter.

(July 29, 1970, 84 Stat. 536, Pub. L. 91-358, title I, § 121(a); Sept. 26, 2012, D.C. Law 19-169, § 20(c)(3), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2321.

1973 Ed., § 16-2321.

Effect of Amendments

D.C. Law 19-169 rewrote the section heading which had read: "Disposition of mentally ill or substantially retarded child"; in subsec. (a), substituted "has a mental illness or a substantial intellectual disability" for "is mentally ill or substantially retarded"; and, in subsec. (b), substituted "have a mental illness or a substantial intellectual disability" for "be mentally ill or substantially retarded".

Legislative History of Laws

For history of Law 19-169, see notes under § 16-1054.

§ 16-2322. LIMITATION OF TIME ON DISPOSITIONAL ORDERS.

(a)(1) A dispositional order vesting legal custody of a neglected child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it appears the purpose of the order has been achieved.

(4) Subject to subsection (f) of this section, a dispositional order vesting legal custody of a child adjudicated delinquent or in need of supervision in a department, agency, or institution shall remain in force for an indeterminate period not to exceed the youth's twenty-first birthday. Unless the order sets a minimum period for commitment of the child, or specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(b) A dispositional order vesting legal custody of a neglected child in an agency or institution may be extended for additional periods of one year upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that the extension is necessary to safeguard the welfare of the child.

(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services or the Corporation Counsel, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a) (1) or (3), shall promptly be reported in writing to the Division.

(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an order or release a child shall be notified, in accordance with rules of the Superior Court, of his right to move for the sealing of his records as provided in section 16-2335.

(f) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when he reaches twenty-one years of age.

(July 29, 1970, 84 Stat. 537, Pub. L. 91-358, title I, § 121(a); May 15, 1993, D.C. Law 9-272, § 103, 40 DCR 796; Mar. 24, 1998, D.C. Law 12-81, § 10(cc), 45 DCR 745; Mar. 17, 2005, D.C. Law 15-261, § 502(c), 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2322.

Effect of Amendments

D.C. Law 15-261, in subsec. (c), substituted "Director of Social Services or the Corporation Counsel" for "Director of Social Services".

Legislative History of Laws

For legislative history of D.C. Law 9-272, see Historical and Statutory Notes following § 16-2307.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

§ 16-2323. REVIEW OF DISPOSITIONAL ORDERS.

(a) When a child has been adjudicated neglected and a dispositional order has been entered by the Division, the Division shall:

- (1) Hold a review hearing at least every 6 months for every child for as long as the child remains in an out-of-home placement, unless the child has received a permanency hearing within the past 6 months;
- (2) Hold a review hearing at least every year for all other children;
- (3) If reasonable efforts are not made pursuant to § 4-1301.09a, hold a permanency hearing within 30 days after the determination that reasonable efforts need not be made; and
- (4) Hold a permanency hearing for every child within 12 months after the child's entry into foster care and at least every 6 months thereafter, for as long as the child remains in an out-of-home placement.

(b) The purpose of the review hearing shall include determining:

- (1) The safety of the child;
- (2) The continuing necessity for and appropriateness of the placement;
- (3) The extent of compliance with the case plan;
- (4) The extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and
- (5) A date by which the child may be returned to and safely maintained in the home or placed for adoption or other permanent placement.

(c) The purpose of the permanency hearing shall include the determination required by subsection (b) of this section and determining the permanency plan for the child including whether, and if so when, the child will be:

- (1) Returned to the parent;
- (2) Placed for adoption, in which case the District shall file a motion for termination of parental rights, unless an adoption petition has been filed, in which case the District shall seek to be joined as a party to the filed petition;
- (3) Placed pursuant to an award of legal custody or guardianship; or
- (4) Placed, because of compelling circumstances, in another planned permanent living arrangement, such as with a kinship caregiver, in another relative placement, or in independent living.

(d) At least 10 days prior to each review or permanency hearing the Division or the department, agency, or institution responsible for the supervision of the services to the child and his parent, guardian, or custodian shall submit a report to the Division which shall include, but not be limited to, the following information:

- (1) The services provided or offered to the child and his parent, guardian, or other custodian;
- (2) Any evidence of the amelioration of the condition which resulted in the finding of neglect and any evidence of new problems which would adversely affect the child;
- (3) An evaluation of the cooperation of the parent, guardian, or custodian with the Division or the applicable department, agency, or institution;
- (4) In those cases in which the custody of the child has been vested in a department, agency, institution, or person other than the parent:
 - (A) The extent to which visitation has occurred and any reasons why visitation has not occurred or has been infrequent;
 - (B) The estimated time in which the child can be returned to the home; and
 - (C) Whether the agency has initiated or intends to initiate the filing by the Corporation Counsel of a motion requesting the termination of the parent and child relationship and any reasons why it does

not intend to initiate the filing of such a motion; and

(5) Any other information as may be required by rules of the Superior Court of the District of Columbia.

(e) A notice of a review or permanency hearing under this section shall be given to all parties and their attorneys of record as prescribed by rules of the Superior Court of the District of Columbia.

(f) If the Division finds that the commitment of the child to a department, agency, institution or person other than the parent is no longer necessary to safeguard the welfare of the child, the Division may order:

(1) The child returned to the home and the provision of supervision or other services; or

(2) Any other disposition authorized by § 16-2320(a).

(g) When a child has been adjudicated delinquent and a dispositional order has been entered by the Division pursuant to section 16-2320, the Director of Court Social Services or the Youth Services Administration, whichever is responsible for supervision of the disposition order, shall conduct periodic evaluations of the child to:

(1) Determine if rehabilitative progress has been made and if the services provided to the child have been effective; and

(2) Determine, in conjunction with the child, the child's attorney, and the Corporation Counsel, what steps, if any, should be taken to ensure the rehabilitation and welfare of the child and the safety of the public.

(h)(1) Not more than once in a 6-month period, the child, or the child's parent or guardian, may petition the Division to modify a dispositional order, issued pursuant to section 16-2320, on the grounds that the child is not receiving appropriate services or level of placement.

(2) If the Division finds that the child is not receiving appropriate services or level of placement, the Division may specify a plan for services that will promote the rehabilitation and welfare of the child and the safety of the public, except that the Division may not specify the treatment provider or facility.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(b), 24 DCR 3341; June 27, 2000, D.C. Law 13-136, § 301(f), 47 DCR 2850; Mar. 17, 2005, D.C. Law 15- 261, § 802, 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2323.

1973 Ed., § 16-2323.

Effect of Amendments

D.C. Law 13-136 rewrote this section, which previously read:

"(a) When a child has been adjudicated neglected and a dispositional order has been entered by the Division, the Division shall hold a review hearing.

"(1) at least every six (6) months for a child under the age of six (6) years who is committed to the custody of an agency, department, or institution;

"(2) at least every six (6) months for a child of any age who is committed to the custody of an agency, department, or institution but has not been committed for longer than two (2) years;

"(3) at least every year for all other children.

"(b) At least ten (10) days prior to each review hearing the Division or the department, agency, or institution responsible for the supervision of the services to the child and his parent, guardian, or custodian shall submit a report to the Division which shall include, but not be limited to, the following information:

"(1) the services provided or offered to the child and his parent, guardian or other custodian;

"(2) any evidence of the amelioration of the condition which resulted in the finding of neglect and any evidence of new problems which would adversely affect the child;

"(3) an evaluation of the cooperation of the parent, guardian or custodian with the Division or the applicable department, agency, or institution;

"(4) in those cases in which the custody of the child has been vested in a department, agency, institution or person other than the parent--

"(A) the extent to which visitation has occurred and any reasons why visitation has not occurred or has been infrequent,

"(B) the estimated time in which the child can be returned to the home, and

"(C) whether the agency has initiated or intends to initiate the filing by the Corporation Counsel of a motion requesting the termination of the parent and child relationship and any reasons why it does not intend to initiate the filing of such a motion; and

"(5) such other information as may be required by rules of the Superior Court of the District of Columbia.

"(c) A notice of a review hearing under this section shall be given to all parties and their attorneys of record as prescribed by rules of the Superior Court of the District of Columbia.

"(d) If the Division finds that the commitment of the child to a department, agency, institution or person other than the parent is no longer necessary to safeguard the welfare of the child, the Division may order:

"(1) the child returned to the home and the provision of supervision or other services; or

"(2) any other disposition authorized by section 16-2320(a)."

D.C. Law 15-261 added subsecs. (g) and (h).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 301(e) of Adoption and Safe Families Temporary Amendment Act of 1999 (D.C. Law 13-56, March 7, 2000, law notification 47 DCR 1978).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 301(e) of the Adoption and Safe Families Emergency Amendment Act of 1999 (D.C. Act 13-117, July 28, 1999, 46 DCR 6558).

For temporary (90-day) amendment of section, see § 301(e) of the Adoption and Safe Families Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13- 178, November 2, 1999, 46 DCR 9714).

For temporary (90-day) amendment of section, see § 301(e) of the Adoption and Safe Families Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-240, January 11, 2000, 47 DCR 556).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For Law 13-136, see notes following § 16-2301.

For Law 15-261, see notes following § 16-2301.

§ 16-2324. VACATION, TERMINATION OF ORDERS.

(a) An order of the Division under this subchapter shall be set aside if --

(1) it was obtained by fraud or mistake sufficient to set aside an order or judgment in a civil action;

(2) the Division lacked jurisdiction; or

(3) newly discovered evidence so requires.

(b) Not less than 6 months after issuing an order pursuant to section 16- 2323(h)(2), the Division may terminate an order under this subchapter on the grounds that the Youth Services Administration is not providing or cannot provide appropriate services or level of placement.

(July 29, 1970, 84 Stat. 537, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; May 15, 1993, D.C. Law 9-272, § 104, 40 DCR 796; Mar. 17, 2005, D.C. Law 15-261, § 803, 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2324.

1973 Ed., § 16-2324.

Effect of Amendments

D.C. Law 15-261, in the section heading, substituted "Vacation" for "Modification"; designated the existing language of the section as subsec. (a); and added subsec. (b).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 9-272, see Historical and Statutory Notes following § 16-2307.

For Law 15-261, see notes following § 16-2301.

§ 16-2325. SUPPORT OF COMMITTED CHILD.

Whenever legal custody of a child is vested in any agency or individual other than the child's parent, after due notice to the parent or other persons legally obligated to care for and support the child and after hearing, the Division may, at the dispositional hearing or thereafter, order and decree that the parent or other legally obligated person shall pay, in such manner as the Division may direct, a reasonable sum that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person wilfully fails or refuses to pay such sum, the Division may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(July 29, 1970, 84 Stat. 537, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2325.

1973 Ed., § 16-2325.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2325.01. PARTICIPATION ORDER.

(a) In any proceedings under this chapter, the court shall enter an order specifically requiring a parent or guardian to participate in the rehabilitation process of a juvenile, including, but not limited to, mandatory attendance at a juvenile proceeding, parenting class, counseling, treatment, or an education program, unless the court determines that such an order is not in the best interests of the child.

(b) The court shall, when the court determines that it is in the best interests of the child, issue an order applicable to a parent or guardian of a child and the person with whom the child resides, if other than the child's parent or guardian. The order shall require the parent or guardian and the person with whom the child resides, if other than the parent or guardian, to be present at any juvenile proceeding or court ordered program concerning the child.

(c) A person failing to comply with an order issued under this section without good cause may be found in civil contempt of court.

(d) The court shall issue a bench warrant for any parent or guardian or person with whom the child resides, if other than the parent or guardian, who, without good cause, fails to appear at any juvenile proceeding or court ordered program.

(e) For the purposes of this section, good cause for failing to appear shall include, but not be limited to, a situation where a parent, guardian, or person with whom the child resides:

- (1) Has an employment obligation that would result in the loss of employment if not complied with;
- (2) Does not have physical custody of the child and resides outside the District of Columbia; or
- (3) Resides in the District of Columbia, but is outside the District of Columbia at the time of the juvenile proceeding or court ordered program for reasons other than avoiding participation or appearance before the court, and participating or appearing in court will result in undue hardship to such parent or guardian.

(f) It is the intent of this section that every parent or guardian whose child is the subject of a juvenile proceeding and any court ordered program under this chapter should attend any such proceeding or program as often as is practicable.

(g) Nothing in this section shall be construed to create a right for any juvenile to have his or her parent or guardian present at any juvenile proceeding or court ordered program at which such juvenile is present.

(Apr. 9, 1997, D.C. Law 11-199, § 2(c), 43 DCR 4385; Mar. 17, 2005, D.C. Law 15-261, § 1002(b), 52 DCR 1188; Mar. 2, 2007, D.C. Law 16-191, § 41, 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2325.1.

Effect of Amendments

D.C. Law 15-261, in subsecs. (a) and (b), substituted "shall" for "may"; and, in subsec. (c), inserted ", unless the court determines that such an order is not in the best interest of the child".

D.C. Law 16-191, in subsec. (a), validated a previously made technical correction.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(a) of the Juvenile Justice Temporary Act of 2004 (D.C. Law 15-223, March 16, 2005, law notification 52 DCR 3549).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(d) of the Juvenile Justice Emergency Act of 2004 (D.C. Act 15-497, July 19, 2004, 51 DCR 7844).

For temporary (90 day) amendment of section, see § 2(d) of Juvenile Justice Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-547, October 12, 2004, 51 DCR 9844).

For temporary (90 day) amendment of section, see § 2(d) of Juvenile Justice Second Congressional Review Emergency Act of 2004 (D.C. Act 15-727, January 19, 2005, 52 DCR 1952).

Legislative History of Laws

Law 11-199, the "Adjustment Process for Nonviolent Juvenile Offenders and Parent Participation in Court-Ordered Proceedings Act of 1996," was introduced in Council and assigned Bill No. 11-622, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-361 and transmitted to both Houses of Congress for its review. D.C. Law 11-199 became effective on April 9, 1997.

For Law 15-261, see notes following § 16-2301.

For Law 16-191, see notes following § 16-910.

Miscellaneous Notes

Section 28(c)(4) of D.C. Law 15-354 provides that the section designation of § 16-2325.1 of the District of Columbia Official Code is redesignated as § 16-2325.01.

§ 16-2325.02. REPORT ON FAILURE OF RESPONDENTS TO APPEAR IN DELINQUENCY CASES.

The Chief Judge of the Superior Court of the District of Columbia shall submit to the Council a semiannual report detailing the number of respondents in delinquency cases who fail to appear before any court or judicial official as required and the percentage that represents of those adjudicated. For each failure to appear, the report shall include the age of the respondent, the underlying offense with which the respondent was charged, and whether the respondent had previously failed to appear.

(Apr. 24, 2007, D.C. Law 16-306, § 206(d), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 206(d) of Omnibus Public Safety Emergency Amendment Act of 2006 (D.C. Act 16-445, July 19, 2006, 53 DCR 6443).

For temporary (90 day) addition, see § 206(d) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-490, October 18, 2006, 53 DCR 8686).

For temporary (90 day) addition, see § 206(d) of Omnibus Public Safety Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-10, January 16, 2007, 54 DCR 1479).

For temporary (90 day) addition, see § 206(d) of Omnibus Public Safety Second Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-25, April 19, 2007, 54 DCR 4036).

Legislative History of Laws

For Law 16-306, see notes following § 16-1001.

§ 16-2326. COURT COSTS AND EXPENSES.

(a) If, at the dispositional hearing or thereafter, the Division finds, after due notice and a hearing, that the parent or other person legally obligated to care for and support a child subject to proceedings under this subchapter is financially able to pay, the Division may order him or her to pay all of or part of the costs of --

- (1) physical and mental examinations and treatment of the child ordered by the Division;
- (2) except in neglect cases, a reasonable compensation for the services and related expenses of counsel appointed by the Division to represent the child; and
- (3) in neglect cases, a reasonable compensation for the services and related expenses of counsel

appointed by the Division to represent the parent or person.

(b) Payment under this section shall be made as prescribed by rules of the Superior Court of the District of Columbia.

(July 29, 1970, 84 Stat. 537, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 409, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2326.

1973 Ed., § 16-2326.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2326.01. COMPENSATION OF ATTORNEYS IN NEGLECT AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS.

(a)(1) Except as provided for by subsections (b) and (e), an attorney representing a person who is financially unable to obtain legal counsel in a neglect proceeding or appointed to serve as counsel or guardian ad litem for a child who is the subject of a neglect proceeding shall, at the end of the representation or at the end of a segment of the representation, be compensated at a rate not less than the hourly rates established in D.C. Official Code, sec. 11-2604.

(2) The attorney may make a claim for expenses reasonably incurred during the course of the representation.

(b) Compensation payable pursuant to this section shall be subject to the following limitations:

(1) for all proceedings from initial hearing through disposition, the maximum compensation shall be \$1,980;

(2) for all subsequent proceedings other than termination of parental rights, the maximum compensation shall be \$1,980 per year;

(3) for proceedings to terminate parental rights, the maximum compensation shall be \$2,700; and

(4) for appeal of trial court orders, the maximum compensation shall be \$1,350 per case.

(c)(1) A separate claim for compensation and reimbursement shall be made to the Superior Court of the District of Columbia for representation before that Court, and to the District of Columbia Court of Appeals for representation before the District of Columbia Court of Appeals.

(2) Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the court, and the compensation and reimbursement applied for or received in the same case from any other source.

(3) The Superior Court of the District of Columbia or the District of Columbia Court of Appeals shall fix the compensation and reimbursement to be paid to the attorney.

(4) In cases where representation is furnished other than before the Superior Court of the District of Columbia or the District of Columbia Court of Appeals, claims shall be submitted to the Superior Court of the District of Columbia which shall fix compensation and reimbursement to be paid.

(d) For purposes of compensation and other payments authorized by this section, an order by a court granting a new trial shall be deemed to initiate a new case.

(e) If a person for whom counsel is appointed under this section appeals to the District of Columbia Court of Appeals, the person may do so without prepayment of fees, costs, or security and without filing the affidavit required by D.C. Official Code, sec. 11-2604.

(f)(1) Claims for compensation and reimbursement in excess of the maximum amount provided in subsection (b) may be approved for extended or complex representation when the payment is necessary to provide fair compensation. The request for payment shall be submitted by the attorney for approval by the chief judge of the Superior Court of the District of Columbia upon recommendation of the presiding judge in the case or, in cases before the District of Columbia Court of Appeals, approval by the chief judge of the District of Columbia Court of Appeals upon recommendation of the presiding judge in the case.

(2) A decision shall be made by the appropriate chief judge in the case of every claim filed under this subsection.

(g)(1) Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request compensation for services in an ex parte application.

(2) Upon a finding, after appropriate inquiry in an ex parte proceeding, that investigative, expert, or other services are necessary but are not available through existing court resources, and that the person is financially unable to obtain them, the court shall authorize counsel to obtain the services.

(3) Compensation to be paid to a person for services rendered under this subsection shall not exceed \$300, unless payment in excess of that limit is certified by the court, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the presiding judge in the case.

(4) In no event shall the total compensation recoverable for the services described in this section exceed \$750 or the rate provided by D.C. Official Code, sec. 11-2605(c).

(h) Compensation for attorneys appointed to represent parties in neglect proceedings and costs of investigative, expert, and other services shall be paid pursuant to procedures established by the Superior Court of the District of Columbia.

(Mar. 13, 1985, D.C. Law 5-129, § 2(c), 31 DCR 5192; Feb. 24, 1987, D.C. Law 6-192, § 2, 33 DCR 7836; Aug. 6, 1993, D.C. Law 10-11, § 202, 40 DCR 4007; Sept. 30, 1993, D.C. Law 10-25, § 202, 40 DCR 5489; Dec. 21, 2001, 115 Stat. 928, Pub. L. 107-96, par. 20(a); Nov. 25, 2008, D.C. Law 17-271, § 2, 55 DCR 11033; Mar. 11, 2009, 123 Stat. 700, Pub. L. 111-8, § 822(b).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2326.1.

Effect of Amendments

Pub. L. 107-96, in subsec. (b) substituted "\$1,600" for "\$1,100" in pars. (1) and (2), substituted "\$2,200" for "\$1,500" in par. (3), and substituted "\$1,100" for "\$750" in par. (4).

D.C. Law 17-271, in subsecs. (b)(1), (2), substituted "\$1,760" for "\$1,600"; in subsec. (b)(3), substituted "\$2,400" for "\$2,200"; and, in subsec. (b)(4), substituted "\$1,200" for "\$1,100".

Pub. L. 111-8, in subsecs. (b)(1), (2), substituted "\$1,980" for "\$1,760"; in subsec. (b)(3), substituted "\$2,700" for "\$2,400"; and, in subsec. (b)(4), substituted "\$1,350" for "\$1,200".

Emergency Act Amendments

For temporary (90 day) amendment, see § 2 of Appointed Attorney Compensation Emergency Act of 2008 (D.C. Act 17-455, July 28, 2008, 55 DCR 8717).

For temporary (90 day) amendment of section, see § 2 of Appointed Attorney Compensation Congressional Review Emergency Act of 2008 (D.C. Act 17-539, October 20, 2008, 55 DCR 11419).

Legislative History of Laws

Law 5-129, the "Neglect Representation Equity Act of 1984," was introduced in Council and assigned Bill No. 5-356, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 10, 1984, and September 12, 1984, respectively. Signed by the Mayor on October 1, 1984, it was assigned Act No. 5-182 and transmitted to both Houses of Congress for review.

Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

D.C. Law 10-11, the "Omnibus Budget Support Temporary Act of 1993," was introduced in Council and assigned Bill No. 10-259. The Bill was adopted on first and second readings on May 4, 1993, and June 1, 1993, respectively. Signed by the Mayor on June 15, 1993, it was assigned Act No. 10-39 and transmitted to both Houses of Congress for its review. D.C. Law 10-11 became effective on August 6, 1993.

D.C. Law 10-25, the "Omnibus Budget Support Act of 1993," was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

Law 17-271, the "Appointed Attorney Compensation Act of 2008", was introduced in Council and assigned Bill No. 17-757 which was referred to the Committee on Public Safety and Judiciary. The Bill was adopted on first and second readings on July 15, 2008, and September 16, 2008, respectively. Signed by the Mayor on September 30, 2008, it was assigned Act No. 17-525 and transmitted to both Houses of Congress for its review. D.C. Law 17-271 became effective on November 25, 2008.

Effective Dates

Pub. L. 107-96, 115 Stat. 929, the District of Columbia Appropriations Act, 2002, provides in part:

"The amendments made by this provision shall apply with respect to cases and proceedings initiated on or after March 1, 2002."

Section 822(c) of Pub. L. 111-8 provides:

"The amendments made by this section shall apply with respect to cases and proceedings initiated on or after the date of enactment of this Act."

Miscellaneous Notes

Section 28(c)(5) of D.C. Law 15-354 provides that the section designation of § 16-2326.1 of the District of Columbia Official Code is redesignated as § 16-2326.01.

Section 3 of D.C. Law 17-271 provides:

"Sec. 3. Applicability of maximum compensation increases.

"Section 2 shall apply to compensation for representation provided in cases and proceedings initiated on or after the effective date of An Act To amend title 11, District of Columbia Official Code, to implement the increase provided under the District of Columbia Appropriations Act, 2008, in the amount of funds made available for the compensation of attorneys representing indigent defendants in the District of Columbia courts, and for other purposes, H.R. 5551, 110th Cong. (2008)."

§ 16-2327. PROBATION REVOCATION; DISPOSITION.

(a) If a child on probation incident to an adjudication of delinquency or need of supervision violates any term of his probation he may be proceeded against in a probation revocation hearing.

(b) A proceeding to revoke probation shall be commenced by the filing of a revocation petition by the Corporation Counsel. The petition to revoke probation shall be in such form as may be prescribed by rule of the Superior Court and shall be served together with a summons in the manner provided in section 16-2306.

(c) Probation revocation proceedings shall be heard without a jury and shall require establishment of the facts alleged by a preponderance of the evidence. As nearly as may be appropriate, probation revocation proceedings shall conform to the procedures established by this subchapter for delinquency and need of supervision cases.

(d) If a child is found to have violated the terms of his probation, the Division may modify the terms and conditions of the probation order, extend the period of probation, or enter any other order of disposition specified in section 16-2320 for a delinquent child.

(July 29, 1970, 84 Stat. 538, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2327.

1973 Ed., § 16-2327.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2328. INTERLOCUTORY APPEALS.

(a) A child who has been ordered transferred for criminal prosecution under section 16-2307 or detained or placed in shelter care or subjected to conditions of release under section 16-2312, may, within two days of the date of entry of the Division's order, file a notice of interlocutory appeal.

(b) The District of Columbia Court of Appeals shall (1) hear argument on an appeal under subsection (a) on or before the third day (excluding Sundays) after the filing of notice under that subsection, (2) dispense with any requirement of written briefs other than the supporting materials previously submitted to the Division, and (3) render its decision on or before the next day following argument on appeal. The court may in rendering its decision dispense with the issuance of a written opinion.

(c) In cases involving transfer for criminal prosecution, the pendency of an interlocutory appeal shall act to stay criminal proceedings. Until the time for filing an interlocutory appeal has lapsed, or if an appeal is filed until its completion, no child who has been ordered transferred for criminal prosecution shall be removed to a place of adult detention, except as provided in section 16-2313, or otherwise treated as an adult.

(d) The decision of the District of Columbia Court of Appeals shall be final.

(July 29, 1970, 84 Stat. 538, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2328.

1973 Ed., § 16-2328.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2329. FINALITY OF JUDGMENTS; APPEALS; TRANSCRIPTS.

(a) Except as otherwise expressly provided by law, in all hearings and cases tried before the Division pursuant to this subchapter, the judgment of the Division is final.

(b) In all appeals from decisions of the Division with respect to a child alleged to be neglected, delinquent, or in need of supervision, the child shall be identified only by initials in all transcripts, briefs, and other papers filed, and all necessary steps, as prescribed by rule of the District of Columbia Court of Appeals, shall be taken to protect the identity of the child.

(c) Upon the filing of a motion and supporting affidavit stating that he is financially unable to purchase a transcript, a party who has filed notice of appeal or of interlocutory appeal shall be furnished, at no cost or at such part of cost as he is able to pay, so much of the transcript as is necessary adequately to prepare and support the appeal.

(d) An appeal does not operate to stay the order, judgment, or decree appealed from, but on application and hearing whenever the case is properly before the appellate court, that court may order otherwise if suitable provision is made for the care and custody of the child.

(July 29, 1970, 84 Stat. 538, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2329.

1973 Ed., § 16-2329.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2330. TIME COMPUTATION.

(a) In all proceedings in the Division, time limitations shall be reasonably construed by the Division for the protection of the community and of the child.

(b) The following periods shall be excluded in computing the time limits established for proceedings under this subchapter:

(1) The period of delay resulting from a continuance granted, upon grounds constituting unusual circumstances, at the request or with the consent, in any case, of the child or his counsel, or, in neglect cases, also of the parent, guardian, or custodian.

(2) The period of delay resulting from other proceedings concerning the child, including but not limited to an examination or hearing on mental health or an intellectual disability and a hearing on a transfer motion.

(3) The period of delay resulting from a continuance granted at the request of the Corporation Counsel if the continuance is granted because of the unavailability of evidence material to the case, when the Corporation Counsel has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or if the continuance is granted to allow the Corporation Counsel additional time to prepare his case and additional time is required due to the exceptional circumstances of the case.

(4) The period of delay resulting from the imposition of a consent decree.

(5) The period of delay resulting from the absence or unavailability of the child.

(6) A reasonable period of delay when the child is joined for a hearing with another child as to whom

the time for a hearing has not run and there is good cause for not hearing the case separately.
(July 29, 1970, 84 Stat. 539, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; Sept. 26, 2012, D.C. Law 19-169, § 20(c)(4), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2330.

1973 Ed., § 16-2330.

Effect of Amendments

D.C. Law 19-169, in subsec. (b)(2), substituted "an intellectual disability" for "retardation".

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For history of Law 19-169, see notes under § 16-1054.

§ 16-2331. JUVENILE CASE RECORDS; CONFIDENTIALITY; INSPECTION AND DISCLOSURE.

(a) For the purposes of this section, the term "juvenile case records" means the following records of a case over which the Family Court has jurisdiction under section 11-1101(13):

- (1) Notices filed with the court by an arresting officer pursuant to this subchapter;
- (2) The docket of the court and entries therein;
- (3) Complaints, petitions, and other legal papers filed in the case;
- (4) Transcripts of proceedings before the court;
- (5) Findings, verdicts, judgments, orders, and decrees; and
- (6) Other writings filed in proceedings before the court, other than social records.

(b) Except as otherwise provided in this section and in section 16-2333.01, juvenile case records shall be kept confidential and shall not be open to inspection, nor shall information from records inspected be divulged to unauthorized persons.

(c) Subject to the limitations of subsection (f) of this section, the following entities and persons may inspect juvenile case records:

- (1) The Courts:
 - (A) Judges and professional staff of the Superior Court; and
 - (B) Any court in which the respondent is charged or convicted as a respondent in a delinquency matter, or status offense, or as a defendant in a criminal offense, or the court's probation staff.
- (2) Family Court case participants:
 - (A) The Attorney General and his assistants assigned to the Family Court;
 - (B) The respondent and any attorney for the respondent without regard to the age of the respondent at the time of the inspection and without regard to the existence of a pending Family Court case;
 - (C) The parents or guardians and any attorney for them without regard to the age of the respondent at the time of the inspection and without regard to the existence of a pending Family Court case;
 - (D) Unless the release of the information is otherwise prohibited by law or includes mental health information, each victim, or the immediate family member or custodians of each victim if the victim is a child or is deceased or incapacitated, and their duly authorized attorneys, at the discretion of the Attorney General and when the information relates to:
 - (i) Release status;
 - (ii) The level of respondent's placement;
 - (iii) Stay-away orders imposed;
 - (iv) Respondent's participation in diversion or a consent decree;
 - (v) The offenses charged in the petition;
 - (vi) The terms of any plea agreements, findings, or verdicts related to the adjudication of the case; or
 - (vii) Commitment or probational status;

(E) Unless the release of information is otherwise prohibited by law or includes mental health information, each eyewitness, or the immediate family members or custodians of each eyewitness if the eyewitness is a child or is deceased or incapacitated, and their duly authorized attorneys, at the discretion of the Attorney General or of the respondent's attorney and when the information relates to:

- (i) Release status;
- (ii) The level of respondent's placement;
- (iii) Stay-away orders imposed;
- (iv) Respondent's participation in diversion or a consent decree;
- (v) The offenses charged in the petition;
- (vi) The terms of any plea agreements, findings, or verdicts related to the adjudication of the case; or
- (vii) Commitment or probational status; and

(F) Public or private agencies or institutions providing supervision or treatment or having custody of the child, if supervision, treatment, or custody is under order of the Family Court;

(3) Other court case participants and law enforcement:

- (A) The United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys, or defense attorneys, when necessary for the discharge of their official duties;
- (B) Any law enforcement personnel when necessary for the discharge of their official duties;
- (C) The Pretrial Services Agency of the District of Columbia when necessary for the discharge of its official duties; and
- (D) The Court Services and Offender Supervision Agency for the District of Columbia when necessary for the discharge of its official duties;

(4) Government agencies and entities:

- (A) The Mayor in accordance with [§ 50-1403.02];
- (B) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;
- (C) The Child Fatality Review Committee for the purposes of examining past events and circumstances surrounding deaths of children in the District of Columbia or of children who are either residents or wards of the District of Columbia, or for the discharge of its official duties;
- (D) The Children's Advocacy Center and the public and private agencies and institutions that are members of the multidisciplinary investigation team, for purposes of carrying out their official duties, except that only information contained in the records, and not the records or copies of the records, may be provided pursuant to this subparagraph;
- (E) The Child and Family Services Agency, for the purposes of carrying out its official duties; and
- (F) The Juvenile Abscondence Review Committee for the purposes of examining circumstances and events surrounding any homicide, assault with intent to kill, and assault with a deadly weapon committed in the District by or to a juvenile in abscondence; and

(5) Other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of the respondent's family, or in the work of the Superior Court, if authorized by rule or special order of the court.

(d) The prosecuting attorney inspecting records pursuant to subsection (c)(3)(A) of this section may divulge the contents to the extent required in the prosecution of a criminal case, and the United States Attorney for the District of Columbia and his assistants may inspect a transcript of the testimony of any witness and divulge the contents to the extent required by the prosecution of the witness for perjury, without, wherever possible, naming or otherwise revealing the identity of a child under the jurisdiction of the Family Court.

(e) Notwithstanding subsection (b) of this section, the Family Court, upon application of the Attorney General, may order the release of certain information contained in the case record if:

- (1) The respondent has escaped from detention or from the custody of the Department of Youth Rehabilitation Services and is likely to pose a danger or threat of bodily harm to another person;
- (2) Release of the information is necessary to protect the public safety and welfare; and
- (3) The respondent has been charged with a crime of violence as defined in section 23-1331(4).

(f) Notwithstanding subsections (b) and (c) of this section, the Superior Court may by rule or special order provide that particular items or classes of items in juvenile case records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection:

- (1) In delinquency or need of supervision cases, by the attorney for the child; or
- (2) In neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

(g) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile case records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

(h)(1) Notwithstanding subsection (b) of this section, for every respondent against whom the Office of the Attorney General has filed a petition for the following:

- (A) A crime of violence (as defined in section 23-1331(4));
- (B) A weapons offense;
- (C) Unauthorized use of a vehicle;
- (D) Theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or
- (E) The Office of the Attorney General has filed 3 or more petitions against the respondent, and the respondent is not detained by the Family Court pursuant to section 16-2313(b)(3), the Family Court shall provide, within 48 hours of the decision not to detain the respondent, the following case record information to the Chief of the Metropolitan Police Department ("Chief"):
 - (i) Respondent's name and date of birth;
 - (ii) Last known address of the respondent;
 - (iii) Last known address of respondent's parents, guardians, caretakers, and custodians;
 - (iv) Address where the respondent will be placed and the name and address of the person into whose custody the respondent will be placed; and
 - (v) All terms of the placement or conditions of release.

(2) Notwithstanding subsection (b) of this section, the Family Court shall provide the following case record information to the Chief for all cases in which the respondent is not detained by the Family Court pursuant to section 16-2313(b)(3) and cases in which the respondent is placed on probation pursuant to section 16-2320(c)(3):

- (A) Respondent's name and date of birth;
- (B) All terms or conditions of any stay-away order; and
- (C) All terms or conditions of any curfew order.

(3) The Chief shall utilize information obtained from the Family Court and may disclose such information to law enforcement officers or law enforcement entities only as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

(4) If the Chief discloses information pursuant to paragraph (3) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2332 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336. Any violation of this paragraph will result in an investigation of the violation by the Inspector General of the District of Columbia.

(5) If the petition filed against the juvenile does not result in disposition, the Family Court, within 48 hours of the entry of the decision by the court to dismiss or close the case, or the withdrawal of the petition by the Office of the Attorney General, shall notify the Chief of the Metropolitan Police Department that the case has not resulted in a disposition. The Chief shall, within 48 hours of the notification, destroy and erase from Metropolitan Police Department files the case record information received from the Family Court pursuant to this subsection and shall notify all parties and agencies to which it transmitted case record information pursuant to paragraph (3) of this subsection that the juvenile's case did not result in a disposition and any information that has been transmitted shall be destroyed and erased.

(i) No person shall disclose, inspect, or use records in violation of this section.

(July 29, 1970, 84 Stat. 539, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; Mar. 16, 1989, D.C. Law 7-222, § 4, 36 DCR 570; May 15, 1993, D.C. Law 9-272, § 105, 40 DCR 796; Apr. 9, 1997, D.C. Law 11-255, § 18(h), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 10(dd), 45 DCR 745; Oct. 3, 2001, D.C. Law 14-28, § 4620(b), 48 DCR 6981; Mar. 17, 2005, D.C. Law 15-261, § 302(a), 52 DCR 1188; Mar. 14, 2007, D.C. Law 16-274, § 2(b), 54 DCR 794; Dec. 4, 2010, D.C. Law 18-273, § 210(a), 57 DCR 7171; Mar. 8, 2011, D.C. Law 18-284, §§ 3(c), 4, 57 DCR 10477; Sept. 26, 2012, D.C. Law 19-171, § 75(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2331.

1973 Ed., § 16-2331.

Effect of Amendments

D.C. Law 14-28, in subsec. (b), made nonsubstantive changes in pars. (8) and (9), and added par. (10).

D.C. Law 15-261, in subsec. (b), added pars. (3A), (11), (12), and (13), rewrote pars. (4), (6), (9), and substituted a period for a semicolon at the end of par. (10); and added subsec. (b-1). Prior to amendment, pars. (4), (6), and (9), read as follows:

"(4) any court or its probation staff, for purposes of sentencing the respondent as a defendant in a criminal case and the counsel for the defendant in that case;

"(6) the United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys involved in the investigation or trial of a criminal case arising out of the same transaction or occurrence as a case in which a child is alleged to be delinquent, or where the records are involved in determining the conditions of release or bail for a person charged with a criminal offense;

"(9) a court in which a person is charged with a criminal offense for the purposes of determining conditions of release or bail; and"

D.C. Law 16-274 added subsec. (d-1).

D.C. Law 18-273 added subsec. (b)(9A).

D.C. Law 18-284 repealed the amendment by Law 18-273, § 210, and rewrote the section, which formerly read:

"(a) As used in this section, the term 'juvenile case records' refers to the following records of a case over which the Division has jurisdiction under section 11-1101(13):

"(1) Notices filed with the court by an arresting officer pursuant to this subchapter.

"(2) The docket of the court and entries therein.

"(3) Complaints, petitions, and other legal papers filed in the case.

"(4) Transcripts of proceedings before the court.

"(5) Findings, verdicts, judgments, orders, and decrees.

"(6) Other writings filed in proceedings before the court, other than social records.

"(b) Juvenile case records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c) of this section, the inspection of those records shall be permitted to --

"(1) judges and professional staff of the Superior Court;

"(2) the Corporation Counsel and his assistants assigned to the Division;

"(3) the respondent, his parents or guardians, and their duly authorized attorneys;

"(3A) at the discretion of the Corporation Counsel, each eyewitness, victim, or the immediate family members or custodians of each eyewitness or victim if the eyewitness or victim is a child or is deceased or incapacitated, and their duly authorized attorney, when the information relates to release status, the level of respondent's placement, stay-away orders imposed, respondent's participation in diversion or a consent decree, the offenses charged in the petition, the terms of any plea agreements, findings, or verdicts related to the adjudication of the case, or commitment or probational status, unless the release of such information is otherwise prohibited by law or includes mental health information;

"(4) any court in which respondent is charged or convicted as a respondent in a delinquency matter, or status offense, or as a defendant in a criminal offense, or the court's probation staff, and counsel for the respondent or defendant in that case;

"(5) public or private agencies or institutions providing supervision or treatment or having custody of the child, if supervision, treatment, or custody is under order of the Division;

"(6) the United States Attorney for the District of Columbia, his assistants, and any other prosecuting

attorneys, or defense attorneys, when necessary for the discharge of their official duties;

"(7) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Superior Court, if authorized by rule or special order of the court.

"(8) the Mayor in accordance with the Motor Vehicle Operator's Permit Revocation Amendment Act of 1988;

"(9) authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;

"(9A) Authorized persons for the purposes of and in accordance with Chapter 2A of Title 7;

"(10) The Child Fatality Review Committee for the purposes of examining past events and circumstances surrounding deaths of children in the District of Columbia or of children who are either residents or wards of the District of Columbia, or for the discharge of its official duties;

"(11) the Children's Advocacy Center and the public and private agencies and institutions that are members of the multidisciplinary investigation team, for purposes of carrying out their official duties, except that only information contained in the records, and not the records or copies of the records, may be provided pursuant to this paragraph;

"(12) the Child and Family Services Agency, for the purposes of carrying out its official duties;

"(13) any law enforcement personnel when necessary for the discharge of their official duties.

"(b-1) Records inspected may not be divulged to unauthorized persons. The prosecuting attorney inspecting records pursuant to paragraph (6) of this subsection may divulge the contents to the extent required in the prosecution of a criminal case, and the United States Attorney for the District of Columbia and his assistants may inspect a transcript of the testimony of any witness and divulge the contents to the extent required by the prosecution of the witness for perjury, without, wherever possible, naming or otherwise revealing the identity of a child under the jurisdiction of the Division.

"(b-2) Notwithstanding subsection (b) of this section, the Division, upon application of the Corporation Counsel and notice and opportunity for respondent or his counsel to respond to the application, may order the release of certain information contained in the case record if:

"(1) The respondent has escaped from detention or from the custody of the Youth Services Administration and is likely to pose a danger or threat of bodily harm to another person;

"(2) Release of such information is necessary to protect the public safety and welfare; and

"(3) The respondent has been charged with a crime of violence as defined in section 23-1331(4).

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile case records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile case records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(d-1)(1) Notwithstanding subsections (b), (b-1), (b-2), (c), or (d) of this section, for every respondent whom the Office of the Attorney General has filed a petition against for the following: (i) a crime of violence (as defined in section 23-1331(4)); (ii) a weapons offense; (iii) unauthorized use of a vehicle; (iv) theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or (v) the Office of the Attorney General has filed 3 or more petitions against the respondent, and the respondent is not detained by the Family Court of the Superior Court of the District of Columbia pursuant to section 16-2313(b)(3), the Family Court shall provide, within 48 hours of the decision not to detain the respondent, the following case record information to the Chief of the Metropolitan Police Department ('Chief):

"(A) Respondent's name and date of birth;

"(B) Last known address of the respondent;

"(C) Last known address of respondent's parents, guardians, caretakers, and custodians;

"(D) Address to which the respondent will be placed and the name and address of the person into whose custody the respondent will be placed; and

"(E) All terms of the placement or conditions of release.

"(2) Notwithstanding subsections (b), (b-1), (b-2), (c), or (d) of this section, the Family Court shall provide the following case record information to the Chief for all cases in which the respondent is not detained by the

Family Court pursuant to section 16-2313(b)(3) and cases in which the respondent is placed on probation pursuant to section 16-2320(c)(3):

"(A) Respondent's name and date of birth;

"(B) All terms or conditions of any stay-away order; and

"(C) All terms or conditions of any curfew order.

"(3) The Chief shall utilize information obtained from the Family Court and may disclose such information to law enforcement officers or law enforcement entities only as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

"(4) If the Chief discloses information pursuant to paragraph (3) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2332 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336. Any violation of this paragraph will result in an investigation of the violation by the Inspector General of the District of Columbia.

"(5) If the petition filed against the juvenile does not result in disposition, the Family Court, within 48 hours of the entry of the decision by the court to dismiss or close the case, or the withdrawal of the petition by the Office of the Attorney General, shall notify the Chief of the Metropolitan Police Department that the case has not resulted in a disposition. The Chief shall, within 48 hours of the notification, destroy and erase from Metropolitan Police Department files the case record information received from the Family Court pursuant to this subsection and shall notify all parties and agencies to which it transmitted case record information pursuant to paragraph (3) of this subsection that the juvenile's case did not result in a disposition and any information that has been transmitted shall be destroyed and erased.

"(e) No person shall disclose, inspect, or use records in violation of this section."

D.C. Law 19-171, in subsec. (e)(3), validated a previously made technical correction.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of Child Fatality Review Committee Establishment Temporary Act of 2001 (D.C. Law 14-20, September 6, 2001, law notification 48 DCR 9090).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 20(b) of Child Fatality Review Committee Establishment Emergency Act of 2001 (D.C. Act 14-40, April 25, 2001, 48 DCR 5917).

For temporary (90 day) amendment of section, see § 20(b) of Child Fatality Review Committee Establishment Legislative Review Emergency Act of 2001 (D.C. Act 14-82, July 9, 2001, 48 DCR 6355).

For temporary (90 day) amendment of section, see § 201(b) of Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006 (D.C. Act 16-446, July 21, 2006, 53 DCR 6477).

For temporary (90 day) amendment of section, see § 301(b) of Crime Reduction Initiative Emergency Amendment Act of 2006 (D.C. Act 16-491, October 19, 2006, 53 DCR 8818).

For temporary (90 day) amendment of section, see § 201(b) of Crime Reduction Initiative Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-9, January 16, 2007, 54 DCR 1471).

For temporary (90 day) amendment of section, see § 210(a) of Data-Sharing and Information Coordination Emergency Amendment Act of 2010 (D.C. Act 18-530, August 6, 2010, 57 DCR 8099).

For temporary (90 day) amendment of section, see § 210(a) of Data-Sharing and Information Coordination Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-582, October 20, 2010, 57 DCR 10118).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 7-222, see Historical and Statutory Notes following § 16-2318.

For legislative history of D.C. Law 9-272, see Historical and Statutory Notes following § 16-2307.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 16-2309.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

For Law 14-28, see notes following § 16-311.

For Law 15-261, see notes following § 16-2301.

For Law 16-274, see notes following § 16-2301.

Law 18-273, the "Data-Sharing and Information Coordination Amendment Act of 2010", was introduced in

Council and assigned Bill No. 18-356 which was referred to the Committee on Health and Human Services. The Bill was adopted on first and second readings on June 1, 2010, and June 29, 2010, respectively. Signed by the Mayor on July 20, 2010, it was assigned Act No. 18-489 and transmitted to both Houses of Congress for its review. D.C. Law 18-273 became effective on December 4, 2010.

Law 18-284, the "Expanding Access to Juvenile Records Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-344, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on July 13, 2010, and October 19, 2010, respectively. Signed by the Mayor on November 3, 2010, it was assigned Act No. 18-594 and transmitted to both Houses of Congress for its review. D.C. Law 18-284 became effective on March 8, 2011.

Law 19-171, the "Technical Amendments Act of 2012", was introduced in Council and assigned Bill No. 19-397, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 20, 2012, and April 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to both Houses of Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 16-2332. JUVENILE SOCIAL RECORDS; CONFIDENTIALITY; INSPECTION AND DISCLOSURE.

(a) For the purposes of this section, the term "juvenile social records" means all social records made with respect to a child in any proceedings over which the Family Court has jurisdiction under section 11-1101(13), including preliminary inquiries, predisposition studies, and examination reports.

(b) Except as otherwise provided in this section and in section 16-2333.01, juvenile social records shall be kept confidential and shall not be open to inspection.

(c) Subject to the limitations of subsection (e) of this section, the following persons and entities may inspect juvenile social records:

(1) Courts:

(A) Judges and professional staff of the Superior Court; and

(B) Any court or its probation staff, for purposes of sentencing the child as a defendant in a criminal case;

(2) Family Court case participants:

(A) The Attorney General and his assistants assigned to the Family Court;

(B) The respondent and any attorney for the respondent without regard to the age of the respondent at the time of the inspection and without regard to the existence of a pending Family Court case; and

(C) Public or private agencies or institutions providing supervision or treatment, or having custody of the child, if the supervision, treatment, or custody is under the order of the Family Court;

(3) Other court case participants and law enforcement:

"Law enforcement officers of the United States, the District of Columbia, and other jurisdictions when a custody order has issued for the respondent, except that such records shall be limited to photographs of the child, a physical description of the child, and any addresses where the child may be found, and the law enforcement officer may not be permitted access to any other documents or information contained in the social file;

(4) Government agencies and entities:

(A) Professional employees of the Department of Youth Rehabilitation Services when necessary for the discharge of their official duties;

(B) The Child and Family Services Agency when necessary for the discharge of its official duties;

(C) The Child Fatality Review Committee for the purposes of examining past events and circumstances surrounding deaths of children in the District of Columbia or of children who are either residents or wards of the District of Columbia, or for the discharge of its official duties;

(D) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families; and

(5) Other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of the respondent's family, or in the work of the Family Court, if authorized by rule or special order of the court.

(d)(1) Except as otherwise provided in this section and in section 16-2333.01, records inspected

pursuant to subsection (c) of this section may not be divulged to unauthorized persons.

(2)(A) Notwithstanding paragraph (1) of this subsection, health and human services information contained with juvenile social records may be divulged for the purposes of and in accordance with [Chapter 2A of Title 7].

(B) For the purposes of this paragraph, the term "health and human services information" shall have the same meaning as provided in [§ 7-241(3)].

(e) Notwithstanding subsections (b) and (c) of this section, the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection:

(1) In delinquency or need of supervision cases, by the attorney for the child; or

(2) In neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

(f) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile social records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

(g)(1) Notwithstanding subsections (b), (c), (d), or (e) of this section, for every respondent committed to the Department of Youth Rehabilitation Services ("Department") pursuant to section 16-2320(c)(2) who has been adjudicated of:

(A) A crime of violence (as defined in section 23-1331(4));

(B) A weapons offense;

(C) Unauthorized use of a vehicle;

(D) Theft in the first degree where property obtained or used is a motor vehicle (as defined in section 22-3215(a)); or

(E) Adjudicated 3 or more times, the Mayor may direct the Director of the Department ("Director") to provide notice to the Chief of the Metropolitan Police Department ("Chief") of any assignment or placement of the respondent in a Department facility or residential or other placement, including any facility operated by a contractor or agent, as soon as practicable prior to the assignment or placement.

(2) Notwithstanding subsections (b), (c), (d), or (e) of this section, for any respondent who is detained or committed to the Department, the Director shall provide notice to the Chief of any respondent who has absconded or escaped from any Department facility, or residential or other placement, including any facility or placement operated by an agent or contractor, within one hour of the absconding or escaping.

(3) Notice issued pursuant to this subsection shall include the following information, as applicable:

(A) Respondent's name and date of birth;

(B) Last known address of the respondent;

(C) Last known address of the respondent's parents, guardians, caretakers, and custodians;

(D) Address to which the respondent will be assigned, placed, or released and the name and address of the person into whose custody the respondent will be placed if the respondent is not placed into a Department facility; and

(E) A recent photograph of the respondent, if available.

(4) The Chief shall utilize information obtained from the Director and may disclose such information to law enforcement persons or law enforcement entities only as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

(5) If the Chief discloses information pursuant to paragraph (4) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2331 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336. Any violation of this paragraph will result in an investigation of the violation by the Inspector General of the District of Columbia.

(6) The Chief may make additional case-specific inquiries to the Mayor based on information disclosed under paragraph (1) of this subsection. The Mayor may direct the Director to provide such additional information, when requested by the Chief, but only as necessary to protect public safety or

the safety of the respondent.

(h) No person shall disclose, inspect, or use records in violation of this section.

(July 29, 1970, 84 Stat. 540, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(g), title IV, § 408(a), 24 DCR 3341; Oct. 3, 2001, D.C. Law 14-28, § 4620(c), 48 DCR 6981; Mar. 17, 2005, D.C. Law 15-261, § 302(b), 52 DCR 1188; Mar. 2, 2007, D.C. Law 16-191, §§ 43, 132, 53 DCR 6794; Mar. 14, 2007, D.C. Law 16-274, § 2(c), 54 DCR 864; Dec. 4, 2010, D.C. Law 18-273, § 210(b), 57 DCR 7171; Mar. 8, 2011, D.C. Law 18-284, §§ 3(d), 4, 57 DCR 10477.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2332.

1973 Ed., § 16-2332.

Effect of Amendments

D.C. Law 14-28, in subsec. (b), made nonsubstantive changes in pars. (4), (5), and (6), and added par. (7).

D.C. Law 15-261, in subsec. (b), made nonsubstantive changes at the end of pars. (6) and (7), and added pars. (8), (9), and (10).

D.C. Law 16-191, in subsec. (b), designated pars. (1) and (2) and redesignated former pars. (1) to (10) as subpars. (1)(A) to (J).

D.C. Law 16-274 added subsec. (d-1).

D.C. Law 18-273, in subsec. (b)(1), deleted "and" from the end of subpar. (I), substituted "; and" for a period at the end of subpar. (J), and added subpar. (K).

D.C. Law 18-284 repealed the amendment by Law 18-273, § 210, and rewrote the section, which formerly read:

"(a) As used in this section, the term 'juvenile social records' refers to all social records made with respect to a child in any proceedings over which the Division has jurisdiction under section 11-1101(13), including preliminary inquiries, predisposition studies, and examination reports.

"(b)(1) Juvenile social records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to --

"(A) judges and professional staff of the Superior Court and the Corporation Counsel and his assistants assigned to the Division;

"(B) the attorney for the child at any stage of a proceeding in the Division, including intake;

"(C) any court or its probation staff, for purposes of sentencing the child as a defendant in a criminal case, and, if and to the extent other presentence materials are disclosed to him, the counsel for the defendant in that case;

"(D) public or private agencies or institutions providing supervision or treatment, or having custody of the child, if the supervision, treatment, or custody is under order of the Division;

"(E) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Division, if authorized by rule or special order of the court;

"(F) professional employees of the Social Rehabilitation Administration of the Department of Human Services when necessary for the discharge of their official duties;

"(G) The Child Fatality Review Committee for the purposes of examining past events and circumstances surrounding deaths of children in the District of Columbia or of children who are either residents or wards of the District of Columbia, or for the discharge of its official duties; and

"(H) authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;

"(I) the Child and Family Services Agency when necessary for the discharge of its official duties;

"(J) law enforcement officers of the United States, the District of Columbia, and other jurisdictions when a custody order has issued for the respondent, except that such records shall be limited to photographs of the child, a physical description of the child, and any addresses where the child may be found, and the law enforcement officer may not be permitted access to any other documents or information contained in the social file; and

"(K) Authorized persons for the purposes of and in accordance with Chapter 2A of Title 7.

"(2) Records inspected may not be divulged to unauthorized persons.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile social records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(d-1)(1) Notwithstanding subsections (b), (c), or (d) of this section, for every respondent committed to the Department of Youth Rehabilitation Services ('Department') pursuant to section 16-2320(c)(2) who has been adjudicated of: (i) a crime of violence (as defined in section 23-1331(4)); (ii) a weapons offense; (iii) unauthorized use of a vehicle; (iv) theft in the first degree where property obtained or used is a motor vehicle (as defined in section 22- 3215(a)); or (v) adjudicated 3 or more times, the Mayor may direct the Director of the Department ('Director') to provide notice to the Chief of the Metropolitan Police Department ('Chief') of any assignment or placement of the respondent in a Department facility or residential or other placement, including any facility operated by a contractor or agent, as soon as practicable prior to the assignment or placement.

"(2) Notwithstanding subsections (b), (c), or (d) of this section, for any respondent who is detained or committed to the Department, the Director shall provide notice to the Chief of any respondent absconding or escaping from any Department facility, or residential or other placement, including any facility or placement operated by an agent or contractor, within one hour of the absconding or escaping.

"(3) Notice issued pursuant to this subsection shall include the following information, as applicable:

"(A) Respondent's name and date of birth;

"(B) Last known address of the respondent;

"(C) Last known address of the respondent's parents, guardians, caretakers, and custodians;

"(D) Address to which the respondent will be assigned, placed, or released and the name and address of the person into whose custody the respondent will be placed if the respondent is not placed into a Department facility; and

"(E) A recent photograph of the respondent, if available.

"(4) The Chief shall utilize information obtained from the Director and may disclose such information to law enforcement persons or law enforcement entities only as necessary to preserve public safety or the safety of the respondent. The Chief shall not otherwise disclose this information, except as authorized by this section.

"(5) If the Chief discloses information pursuant to paragraph (4) of this subsection, the Chief shall notify the recipient that the information may only be re-disclosed to law enforcement officers and only to the extent necessary to preserve public safety or the safety of the respondent. The Chief shall notify the recipient of the information that any other use or disclosure of the information shall be governed by this section and sections 16-2331 and 16-2333, and that unauthorized re-disclosure may be prosecuted under section 16-2336. Any violation of this paragraph will result in an investigation of the violation by the Inspector General of the District of Columbia.

"(6) The Chief may make additional case-specific inquiries to the Mayor based on information disclosed under paragraph (1) of this subsection. The Mayor may direct the Director to provide such additional information, when requested by the Chief, but only as necessary to protect public safety or the safety of the respondent.

"(e) No person shall disclose, inspect, or use records in violation of this section."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 20(c) of Child Fatality Review Committee Establishment Temporary Act of 2001 (D.C. Law 14-20, September 6, 2001, law notification 48 DCR 9090).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 20(c) of Child Fatality Review Committee Establishment Emergency Act of 2001 (D.C. Act 14-40, April 25, 2001, 48 DCR 5917).

For temporary (90 day) amendment of section, see § 20(c) of Child Fatality Review Committee Establishment Legislative Review Emergency Act of 2001 (D.C. Act 14-82, July 9, 2001, 48 DCR 6355).

For temporary (90 day) amendment of section, see § 201(c) of Enhanced Crime Prevention and Abatement Emergency Amendment Act of 2006 (D.C. Act 16-446, July 21, 2006, 53 DCR 6477).

For temporary (90 day) amendment of section, see § 301(c) of Crime Reduction Initiative Emergency Amendment Act of 2006 (D.C. Act 16-491, October 19, 2006, 53 DCR 8818).

For temporary (90 day) amendment of section, see § 201(c) of Crime Reduction Initiative Congressional Review Emergency Amendment Act of 2007 (D.C. Act 17-9, January 16, 2007, 54 DCR 1471).

For temporary (90 day) amendment of section, see § 210(b) of Data-Sharing and Information Coordination Emergency Amendment Act of 2010 (D.C. Act 18-530, August 6, 2010, 57 DCR 8099).

For temporary (90 day) amendment of section, see § 210(b) of Data-Sharing and Information Coordination Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-582, October 20, 2010, 57 DCR 10118).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For Law 14-28, see notes following § 16-311.

For Law 15-261, see notes following § 16-2301.

For Law 16-191, see notes following § 16-910.

For Law 16-274, see notes following § 16-2301.

For Law 18-273, see notes following § 16-2331.

For history of Law 18-284, see notes under § 16-2301.

Miscellaneous Notes

Mayor's Direction under the Mandatory Juvenile Public Safety Notification Amendment Act of 2006, see Mayor's Order 2010-2, January 22, 2010 (57 DCR 1002).

§ 16-2333. POLICE AND OTHER LAW ENFORCEMENT RECORDS.

(a) Except as otherwise provided in this section and in section 16-2333. 01, law enforcement records and files concerning a child shall not be open to public inspection nor shall their contents or existence be disclosed to the public unless:

(1) A charge of delinquency is transferred for criminal prosecution under section 16-2307;

(1A) The record pertains to a civil Notice of Violation;

(2) The interest of national security requires; or

(3) The court otherwise orders in the interest of the child.

(b) Inspection of such records and files is permitted by:

(1) Courts:

(A) The Superior Court, having the child currently before it in any proceedings; and

(B) Any court in which respondent is charged or convicted as a respondent in a delinquency matter, or status offense, or as a defendant in a criminal offense, or the court's probation staff, or by officials of rehabilitation or penal institutions and other rehabilitation or penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him;

(2) Case participants:

(A) The child and any attorney for the child without regard to the age of the child at the time of the inspection and without regard to the existence of a pending Family Court case;

(B) Parents or guardians of the child and any attorney for them without regard to the age of the child at the time of the inspection and without regard to the existence of a pending Family Court case;

(C) Each eyewitness, victim, or the immediate family members or caretakers of the eyewitness or victim if the eyewitness or victim is a child or is deceased or incapacitated, and their duly authorized attorneys, when the records relate to the incident in which they were an eyewitness or a victim; and

(D) The officers of public and private institutions or agencies to which the child is currently committed, and those professional persons or agencies responsible for the child's supervision after release;

(3) Prosecutors and law enforcement:

(A) Law enforcement officers of the United States, the District of Columbia, and other jurisdictions when necessary for the discharge of their current official duties;

(B) The United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys when necessary for the discharge of their official duties;

(4) Government agencies and entities:

- (A) Professional employees of the Department of Youth Rehabilitation Services when necessary for the discharge of their official duties;
- (B) The Child Fatality Review Committee when necessary for the discharge of its official duties;
- (C) Authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;
- (D) The Children's Advocacy Center and the public and private agencies and institutions that are members of the multi-disciplinary investigation team, for purposes of carrying out their official duties, except that only information contained in the records, and not the records of copies of the records, may be provided pursuant to this subparagraph; and
- (E) The Juvenile Abscondence Review Committee for the purposes of examining circumstances and events surrounding any homicide, assault with intent to kill, and assault with a deadly weapon committed in the District by or to a juvenile in abscondence; and

(5) Any other person, agency, or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department.

(c) The Family Court, upon application of the Attorney General and notice and opportunity for respondent or his counsel to respond to the application, may order the release of certain information contained in the law enforcement records if:

- (1) The respondent has escaped from detention or from the custody of the Department of Youth Rehabilitation Services and is likely to pose a danger or threat of bodily harm to another person;
- (2) Release of such information is necessary to protect the public safety and welfare; and
- (3) The respondent has been charged with a crime of violence as defined in section 23-1331(4).

(d) Photographs may be displayed to potential witnesses for identification purposes, in accordance with the standards of fairness applicable to adults.

(e)(1) Certain juvenile crime information (but not records) shall not be confidential and shall be disclosable to the public strictly in accordance with the provisions of this subsection.

(2) The public availability of the information regarding a child shall be limited to:

- (A) The child's name;
- (B) The fact that the child was arrested;
- (C) The charges at arrest;
- (D) The charges in the petition filed pursuant to section 16-2305;
- (E) Whether the petition resulted in an adjudication and the charges for which the child was found involved; and
- (F) If the child was found involved, whether at initial disposition the child was placed on probation or committed to the custody of the Department of Youth Rehabilitation Services.

(3) The information shall be available only regarding:

- (A) A juvenile who has been adjudicated delinquent of a crime of violence (as defined in section 23-1331(4)), or any felony offense under Chapter 45 of Title 22 (weapons) or Chapter 23 of Title 6 (Firearms Control);
- (B) A juvenile who has been adjudicated delinquent 2 or more times of:
 - (i) A dangerous crime (as defined in section 23-1331(3)) that is not included in subparagraph (A) of this paragraph;
 - (ii) Unauthorized use of a vehicle;
 - (iii) Theft in the first degree where the property obtained or used is a motor vehicle (as defined in section 22-3215(a));
 - (iv) A assault (as defined in section 22-404(a)(2)); or
 - (v) Any combination thereof; and
- (C) An adult offender (including a juvenile tried as an adult under this chapter) convicted of a felony or of misdemeanor assault; provided, that no more than 3 years have lapsed between the completion of his or her juvenile sentence and the adult conviction.

(4) This subsection permits the limited disclosure of information contained in records and files otherwise protected from disclosure under § 16-2333, but does not authorize disclosure of the records and files.

(5) This subsection shall apply only to individuals adjudicated after January 1, 2011, regardless of when the criminal offense occurred.

(6) Any law enforcement information shared with the public shall comply with Metropolitan Police Regulations that apply to adult criminal records, including the Duncan Ordinance (Chapter 10 of Title 1 of the District of Columbia Municipal Regulations).".

(f) Notwithstanding the confidentiality requirements of subsection (b) of this section, the Metropolitan Police Department shall make reports available to the public every 6 months of the number of children arrested in the District by the location of the police service area within which the juvenile suspect lives, and giving the location of the police service area within which the crime occurred, the charges, and the date of the crime.

(g) No person shall disclose, inspect, or use records in violation of this section.

(July 29, 1970, 84 Stat. 541, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 110(h), title IV, § 408(a), 24 DCR 3341; Oct. 3, 2001, D.C. Law 14-28, § 4620(d), 48 DCR 6981; Mar. 13, 2004, D.C. Law 15-105, § 10(d), 51 DCR 881; Mar. 17, 2005, D.C. Law 15-261, § 302(c), 52 DCR 1188; Dec. 4, 2010, D.C. Law 18-273, § 210(c), 57 DCR 7171; Mar. 8, 2011, D.C. Law 18-284, §§ 3(e), 4, 57 DCR 10477; June 3, 2011, D.C. Law 18-377, § 6(b), 58 DCR 1174; Sept. 26, 2012, D.C. Law 19- 171, § 53(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2333.

1973 Ed., § 16-2333.

Effect of Amendments

D.C. Law 14-28, in subsec. (b), made nonsubstantive changes in pars. (6), (7), and (8), and added par. (9).

D.C. Law 15-105, in subsec. (b)(9), substituted "the Child" for "The Child".

D.C. Law 15-261, in subsec. (b), added par. (4A), rewrote par. (5), made nonsubstantive changes to the end of pars. (8) and (9), and added pars. (10), (11), and (12); and added subsec. (b-1). Prior to amendment, par. (5) of subsec. (b) read as follows:

"(5) a court in which a person is charged with a criminal offense for the purposes of determining conditions of release or bail;"

D.C. Law 18-273 added subsec. (b)(10A).

D.C. Law 18-284 repealed the amendment by Law 18-273, § 210, and rewrote the section, which formerly read:

"(a) Law enforcement records and files concerning a child shall not be open to public inspection nor shall their contents or existence be disclosed to the public unless a charge of delinquency is transferred for criminal prosecution under section 16-2307, the interest of national security requires, or the court otherwise orders in the interest of the child.

"(b) Inspection of such records and files is permitted by --

"(1) the Superior Court, having the child currently before it in any proceedings;

"(2) the officers of public and private institutions or agencies to which the child is currently committed, and those professional persons or agencies responsible for his supervision after release;

"(3) any other person, agency or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department;

"(4) law enforcement officers of the United States, the District of Columbia, and other jurisdictions when necessary for the discharge of their current official duties;

"(4A) the United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys when necessary for the discharge of their official duties;

"(5) any court in which respondent is charged or convicted as a respondent in a delinquency matter, or status offense, or as a defendant in a criminal offense, or the court's probation staff, and counsel for the respondent or defendant in that case;

"(6) a court in which a person is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him;

"(7) the parent, guardian, or other custodian and counsel for the child;

"(8) professional employees of the Social Rehabilitation Administration of the Department of Human Services when necessary for the discharge of their official duties;

"(9) the Child Fatality Review Committee when necessary for the discharge of its official duties;

"(10) authorized personnel in the Mayor's Family Court Liaison, the Department of Health, the Department of Mental Health, the Child and Family Services Agency, the Department of Human Services, and the District of Columbia Public Schools for the purpose of delivery of services to individuals under the jurisdiction of the Family Court, or their families;

"(10A) authorized persons for the purposes of and in accordance with Chapter 2A of Title 7; except, that the information derived from termination of parental rights and guardianship proceedings shall not be disclosed without the prior written consent of the identified individual, as that term is defined in § 7-241(6).

"(11) the Children's Advocacy Center and the public and private agencies and institutions that are members of the multidisciplinary investigation team, for purposes of carrying out their official duties, except that only information contained in the records, and not the records or copies of the records, may be provided pursuant to this paragraph; and

"(12) each eyewitness, victim, or the immediate family members or caretakers of the eyewitness or victim if the eyewitness or victim is a child or is deceased or incapacitated, and their duly authorized attorney, when the records relate to the incident in which they were an eyewitness or a victim.

"(b-1) Notwithstanding subsection (b) of this section, the Division, upon application of the Corporation Counsel and notice and opportunity for respondent or his counsel to respond to the application, may order the release of certain information contained in the law enforcement records if:

"(1) The respondent has escaped from detention or from the custody of the Youth Services Administration and is likely to pose a danger or threat of bodily harm to another person;

"(2) Release of such information is necessary to protect the public safety and welfare; and

"(3) The respondent has been charged with a crime of violence as defined in section 23-1331(4).

"(c) Photographs may be displayed to potential witnesses for identification purposes, in accordance with the standards of fairness applicable to adults.

"(d) No person shall disclose, inspect, or use records or files in violation of this section."

D.C. Law 18-377 added subsec. (a)(1A).

D.C. Law 19-171 made a technical correction in subsec. (b)(10A) subsequent to its deletion by D.C. Law 18-284.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 6 of the Attendance and School Safety Temporary Act of 2000 (D.C. Law 13-151, July 18, 2000, law notification 47 DCR 6101).

For temporary (225 day) amendment of section, see § 20(d) of Child Fatality Review Committee Establishment Temporary Act of 2001 (D.C. Law 14-20, September 6, 2001, law notification 48 DCR 9090).

Temporary Addition of Section

For temporary (225 day) addition of sections, see §§ 2 to 6 of the Attendance and School Safety Temporary Act of 2000 (D.C. Law 13-151, July 18, 2000, law notification 47 DCR 6101).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 6 of the Attendance and School Safety Emergency Act of 2000 (D.C. Act 13-319, April 17, 2000, 47 DCR 2882).

For temporary (90 day) amendment of section, see § 20(d) of Child Fatality Review Committee Establishment Emergency Act of 2001 (D.C. Act 14-40, April 25, 2001, 48 DCR 5917).

For temporary (90 day) amendment of section, see § 20(d) of Child Fatality Review Committee Establishment Legislative Review Emergency Act of 2001 (D.C. Act 14-82, July 9, 2001, 48 DCR 6355).

For temporary (90 day) amendment of section, see § 210(c) of Data-Sharing and Information Coordination Emergency Amendment Act of 2010 (D.C. Act 18-530, August 6, 2010, 57 DCR 8099).

For temporary (90 day) amendment of section, see § 210(c) of Data-Sharing and Information Coordination Congressional Review Emergency Amendment Act of 2010 (D.C. Act 18-582, October 20, 2010, 57 DCR 10118).

For temporary (90 day) amendment of section, see § 506(b) of Public Safety Legislation Sixty-Day Layover Emergency Amendment Act of 2010 (D.C. Act 18-693, January 18, 2011, 58 DCR 640).

For temporary (90 day) amendment of section, see § 506(b) of Public Safety Legislation Sixty-Day Layover Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-45, April 20, 2011, 58 DCR 3701).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For Law 14-28, see notes following § 16-311.

For Law 15-105, see notes following § 16-1005.

For Law 15-261, see notes following § 16-2301.

For Law 18-273, see notes following § 16-2331.

For history of Law 18-284, see notes under § 16-2301.

For history of Law 18-377, see notes under § 16-711.01.

For history of Law 19-171, see notes under § 16-2331.

§ 16-2333.01. PERMITTED DISCLOSURES OF JUVENILE INFORMATION.

(a) An official of the Family Court, the Department of Youth Rehabilitation Services, or the Metropolitan Police Department may disclose information (but not records) about a juvenile otherwise protected from disclosure under sections 16-2331, 16-2332, and 16-2333 in accordance with this section only if:

- (1) In the professional judgment of the official, disclosing the information will assist in the protection, welfare, treatment, or rehabilitation of the juvenile;
- (2) A professional relationship exists between the official and the juvenile; and
- (3) The general nature of the disclosure, and rationale for making the disclosure, is approved by the official's supervisor or agency director.

(b) Information disclosed under this section may be disclosed only to:

- (1) A principal, teacher, or counselor at a school that the juvenile attends or has attended; or
- (2) A mental health professional as that term is defined in section 7- 1201.01(11).

(c) The information that may be disclosed under this section shall be limited to:

- (1) The juvenile's name;
- (2) Whether the juvenile is or has been on probation or in the custody of the Department;
- (3) Whether the juvenile has violated the terms of probation or absconded while in the custody of the Department;
- (4) Whether the juvenile has been arrested by the Metropolitan Police Department, or another law enforcement agency, and the charges brought against the juvenile; and
- (5) The disposition of the charges brought against the juvenile.

(d) Information disclosed pursuant to this section shall be:

- (1) Kept confidential and shall not be disclosed by the recipient to another individual or entity except in accordance with section 16-2331, 16-2332, or 16-2333; and
- (2) Limited to the greatest extent possible consistent with its express purpose.

(e) This section permits the limited disclosure of information contained in records and files otherwise protected from disclosure under sections 16- 2331, 16-2332, and 16-2333, but does not authorize disclosure of the records and files.

(Mar. 8, 2011, D.C. Law 18-284, § 3(f), 57 DCR 10477.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-284, see notes under § 16-2301.

§ 16-2333.02. JUVENILE ABSCONDEANCE REVIEW COMMITTEE.

(a) For the purposes of this section, the term "abscondence" means the status of a youth who is in the custody of the Department and:

- (1) Has escaped from detention at New Beginnings or the Youth Services Center and for whom the Department has requested a custody order from the court; or
- (2) Has violated his or her Community Release Agreement with the Department by not maintaining contact with his or her case manager or by leaving the place of community placement and for whom the Department has requested a custody order from the court.

(b)(1) There is established, as part of the District of Columbia government, a Juvenile Abscondence Review Committee ("Committee"). Facilities and other administrative support may be provided in a specific department or directly to the Committee, as determined by the Mayor.

(2) The Committee shall:

- (A) Identify cases in which a homicide, assault with intent to kill, or assault with a deadly weapon (firearm), was committed by or to a juvenile in abscondence;
- (B) Examine what steps could have been taken to prevent the juvenile from absconding; and
- (C) Recommend systemic improvements to identify and locate high risk youth that are in abscondence and have the propensity to commit or be involved in a homicide, assault with intent to kill, or assault with a deadly weapon.

(c)(1) The following shall be members of the Committee:

- (A) The Director of the Department of Youth Rehabilitation Services, or his or her designee;
- (B) The Chief of the Metropolitan Police Department, or his or her designee;
- (C) The Chief Judge of the Superior Court, or his or her designee;
- (D) The United States Attorney for the District of Columbia, or his or her designee; and
- (E) A public member, appointed by the Mayor, with advice and consent of the Council, who shall serve a 2-year term.

(2) All members of the Committee (including their designees) shall have expertise in programs providing services to children or in locating high-risk youth who are in abscondence and have the propensity to commit or be involved in a violent crime.

(3) The chairman of the committee of the Council responsible for public safety and the judiciary and the chairman of the committee responsible for oversight of the Department of Youth Rehabilitation Services (but not their designees) shall serve as ex officio members.

(4) Vacancies in membership shall be filled in the same manner in which the original appointment was made.

(5) The Committee shall establish quorum and other procedural requirements as it considers necessary.

(d)(1) Notwithstanding the confidentiality requirements of sections 16-2331 and 16-2333, the Committee shall make a report available to the public of its findings and information related to a juvenile in abscondence within 6 months of the occurrence of the crime for which the juvenile was the victim or the alleged perpetrator.

(2) The report shall include only information that could be released under and in accordance with section 16-2333(e).

(3) The report shall not include any information that:

- (A) Interferes with an ongoing law enforcement investigation or proceeding pertaining to the homicide, assault with intent to kill, or assault with a deadly weapon;
- (B) Deprives a person of a right to a fair trial or an impartial adjudication;
- (C) Endangers the life or safety of any person; or
- (D) Is in violation of the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (Pub. L. No. 104-191; 110 Stat. 1936).

(Mar. 8, 2011, D.C. Law 18-284, § 3(f), 57 DCR 10477.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-284, see notes under § 16-2301.

§ 16-2334. FINGERPRINT RECORDS.

(a) The contents or existence of law enforcement records and files of the fingerprints of a child shall not be disclosed by the custodians thereof, except --

- (1) to a law enforcement officer of the United States, the District of Columbia, or other jurisdiction for purposes of the investigation and trial of a criminal offense; or
- (2) pursuant to rule or special order of the court.

(b) When a child is transferred for criminal prosecution under section 16- 2307, law enforcement records and files of his fingerprints relating to any matter so transferred shall be deemed those of an adult.

(c) No person shall disclose, inspect, or use records in violation of this section.

(July 29, 1970, 84 Stat. 542, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a),

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2334.

1973 Ed., § 16-2334.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2335. SEALING OF RECORDS.

(a) On motion of a person who has been the subject of a petition filed pursuant to section 16-2305, or on the Division's own motion, the Division shall vacate its order and findings and shall order the sealing of the case and social records referred to in sections 16-2331 and 16-2332 and the law enforcement records and files referred to in section 16-2333, or those of any other agency active in the case if it finds that --

(1)(A) a neglected child has reached his majority; or

(B) two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry of any other Division order not involving custody or supervision; and

(2) he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication.

(b) Reasonable notice of a motion shall be given to --

(1) the person who is the subject of the petition;

(2) the Corporation Counsel;

(3) the authority granting the discharge, if the final discharge was from an institution, parole, or probation; and

(4) the law enforcement department having custody of the files and records specified in section 16-2333.

(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred. All facts relating to the action including arrest, the filing of a petition, and the adjudication, filing, and disposition of the Division shall no longer exist as a matter of law. The Division, the law enforcement department, or any other department or agency that received notice under subsection (b) and was named in the order shall reply, and the person who is the subject matter of the records may reply, to any inquiry that no record exists with respect to such person.

(d) Inspection of the files and records included in the order may thereafter be permitted by the Division only upon motion by the person who is the subject of such records, and may be made only by those persons named in the motion; but the Division in its discretion may, by special order in an individual case, permit inspection by or release of information in the records to the Child Fatality Review Committee, where necessary for the discharge of its official duties, and persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the person who is the subject of the petition or other members of his family.

(e) Any adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order.

(f) A person who has been the subject of a petition filed under this subchapter shall be notified of his rights under subsection (a) at the time a dispositional order is entered and again at the time of his final discharge from supervision, treatment, or custody.

(g) No person shall disclose, receive, or use records in violation of this section.

(h) Notwithstanding the availability of information pursuant to section 16-2333(e), a juvenile shall not be required to disclose and shall have the right to refuse disclosure of his or her juvenile delinquency history in an application for employment, education, or housing.

(July 29, 1970, 84 Stat. 542, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(ee), 45 DCR 745; Oct. 3, 2001, D.C. Law 14-28, § 4620(e), 48 DCR 6981; Mar. 8, 2011, D.C. Law 18-284, § 3(g), 57 DCR 10477.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2335.

Effect of Amendments

D.C. Law 14-28, in subsec. (d), inserted "the Child Fatality Review Committee, where necessary for the discharge of its official duties, and" after "in the records to".

D.C. Law 18-284 added subsec. (h).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 20(e) of Child Fatality Review Committee Establishment Temporary Act of 2001 (D.C. Law 14-20, September 6, 2001, law notification 48 DCR 9090).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 20(e) of Child Fatality Review Committee Establishment Emergency Act of 2001 (D.C. Act 14-40, April 25, 2001, 48 DCR 5917).

For temporary (90 day) amendment of section, see § 20(e) of Child Fatality Review Committee Establishment Legislative Review Emergency Act of 2001 (D.C. Act 14-82, July 9, 2001, 48 DCR 6355).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

For Law 14-28, see notes following § 16-311.

For history of Law 18-284, see notes under § 16-2301.

§ 16-2335.01. MOTION TO VACATE ADJUDICATION OR GRANT A NEW FACTFINDING HEARING ON THE GROUND OF ACTUAL INNOCENCE.

(a) A person adjudicated delinquent in the Superior Court may move the court to vacate the adjudication or to grant a new factfinding hearing on grounds of actual innocence based on new evidence.

(b) Notwithstanding the time limits in any other provision of law, a motion for relief under this section may be made at any time.

(c) The motion shall set forth specific, non-conclusory facts:

(1) Identifying the specific new evidence;

(2) Establishing how that evidence demonstrates that the movant is actually innocent despite having been adjudicated at a new factfinding hearing or having pled guilty; and

(3) Establishing why the new evidence is not cumulative or impeaching.

(d)(1) The motion shall include an affidavit by the movant, under penalty of perjury, stating that movant is actually innocent of the crime that is the subject of the motion, and that the new evidence was not deliberately withheld by the movant for purposes of strategic advantage.

(2) The denial of a motion for relief under this section shall not be admissible in any prosecution based on the filing of a false affidavit.

(e)(1) Unless the motion and files and records of the case conclusively show that the movant is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto.

(2) The court may appoint counsel for an indigent movant under this section pursuant to Chapter 26 of Title 11.

(3) The court may entertain and determine the motion without requiring production of the movant at the hearing.

(4) A movant shall be entitled to invoke the processes of discovery available under Superior Court Rules of Juvenile Procedure or Civil Procedure, or elsewhere in the usages and principles of law if, and to the extent that, the judge, in the exercise of the judge's discretion and for good cause shown, grants leave to do so, but not otherwise.

(f) A motion for relief made pursuant to this section may be dismissed if the government demonstrates that it has been materially prejudiced in its ability to respond to the motion by the delay in its filing, unless the movant shows that the motion is based on grounds which the movant could not have raised by the exercise of reasonable diligence before the circumstances prejudicial to the government occurred.

(g)(1) In determining whether to grant relief, the court may consider any relevant evidence, but shall consider the following:

- (A) The new evidence;
 - (B) How the new evidence demonstrates actual innocence;
 - (C) Why the new evidence is or is not cumulative or impeaching;
 - (D) If the adjudication resulted from a factfinding hearing, and if the movant asserted a theory of defense inconsistent with the current claim of innocence, the specific reason the movant asserted an inconsistent theory at the factfinding hearing; and
 - (E) If the adjudication resulted from a guilty plea, the specific reason the movant pleaded guilty despite being actually innocent of the crime.
- (2) If, after considering the factors in paragraph (1) of this subsection, the court concludes that it is more likely than not that the movant is actually innocent of the crime, the court shall grant a new factfinding hearing.
- (3) If, after considering the factors in paragraph (1) of this subsection, the court concludes by clear and convincing evidence that the movant is actually innocent of the crime, the court shall vacate the adjudication and dismiss the relevant count with prejudice.
- (4) If the adjudication resulted from a plea of guilty, and other charges were dismissed as part of a plea agreement, the court shall reinstate any charges of which the respondent has not demonstrated that the respondent is actually innocent.
- (h) The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same movant.
- (i) An order entered on the motion is a final order for purposes of appeal.
- (Mar. 8, 2011, D.C. Law 18-284, § 3(h), 57 DCR 10477.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-284, see notes under § 16-2301.

§ 16-2335.02. SEALING OF RECORDS ON GROUND OF ACTUAL INNOCENCE.

- (a) Notwithstanding section 16-2335, a person who has been arrested for violation of the District of Columbia Official Code or the District of Columbia Municipal Regulations, or has been the subject of a petition filed pursuant to section 16-2305 and whose prosecution has been terminated without adjudication may file a motion with the Family Court at any time to seal all of the records of the arrest and related court proceedings on grounds of actual innocence.
- (b) The burden is on the movant to establish that:
- (1) The violation for which the person was arrested or petitioned did not occur; or
 - (2) The movant did not commit the offense.
- (c) If the motion is filed within 4 years after the prosecution has been terminated, the movant must satisfy the burden described in subsection (b) of this section by a preponderance of the evidence.
- (d) If the motion is filed more than 4 years after the prosecution has been terminated, the movant must satisfy the burden described in subsection (b) of this section by clear and convincing evidence.
- (e) In determining such motions, the Family Court may, but is not required to, employ a rebuttable presumption that the movant is not entitled to relief if the court finds that the government has been substantially prejudiced in its ability to respond to the motion by the delay in its filing, unless the movant shows that the motion is based on grounds which the person could not have raised by the exercise of reasonable diligence before the circumstances prejudicial to the government occurred.
- (f) An acquittal does not establish a presumption that the movant is innocent or entitled to relief pursuant to this section.
- (g) A person whose adjudication has been vacated pursuant to section 16-2335.01(g)(2), and whose subsequent prosecution is terminated without adjudication, may file a motion with the Family Court pursuant to subsection (a) of this section or any other provision of law.
- (h) A person who is found to be actually innocent pursuant to this section or section 16-2335.01(g)(3) shall be entitled to the following relief with respect to such count or counts:
- (1)(A) The Family Court shall summarize in the order the factual circumstances of the challenged arrest and any post-arrest occurrences it deems relevant, and, if the facts support such a conclusion, shall rule as a matter of law that the movant did not commit the offense for which the movant was arrested or

that no offense had been committed.

(B) A copy of the order shall be provided to the movant or his or her counsel.

(C) The movant may obtain a copy of the order at any time from the Family Court, upon proper identification, without a showing of need.

(2)(A) In a case involving co-respondents or co-defendants in which the Family Court orders the movant's records sealed, the Family Court may order that only those records, or portions thereof, relating solely to the movant be sealed.

(B) The Family Court shall order that the movant's name be redacted to the extent practicable from records that are not sealed. The Family Court may make an in camera inspection of these records in order to make this determination.

(C) The Family Court need not order the redaction of references to the movant that appear in a transcript of court proceedings involving the co-defendants.

(D) After references to the movant have been redacted as provided for in this paragraph, the Court shall order those records relating to co-defendants returned to the prosecutor or the Clerk of the Superior Court ("Clerk").

(3) The Court shall not order the redaction of the movant's name from any published opinion of the trial or appellate courts that refer to the movant.

(4) The Court shall:

(A) Order the prosecutor, any relevant law enforcement agency, the Department of Youth Rehabilitative Services, and any other public or private agencies or institutions that provided supervision or treatment, or had custody of the person, if the supervision, treatment, or custody was under an order issued by the Family Court to seal any records that identify the movant as having been arrested, prosecuted, or adjudicated;

(B) Order the prosecutor to arrange for any computerized record of the movant's arrest, prosecution, or adjudication to be eliminated except for a restricted-access file that would permit the prosecutor and law enforcement agencies to retrieve sealed records if ordered to do so by the Court; and

(C) Expressly allow the prosecutor and law enforcement agencies to maintain a publicly available record so long as it is not retrievable by the identification of the movant.

(5) The Family Court shall order the prosecutor, any relevant law enforcement agency, the Department of Youth Rehabilitative Services, and any other public or private agencies or institutions that provided supervision or treatment, or had custody of the person, if the supervision, treatment, or custody was under an order issued by the Family Court to file a certification with the Court within 90 days of an order to seal the records that, to the best of its knowledge and belief, all references that identify the movant as having been arrested, prosecuted, or adjudicated have been sealed.

(6) The Family Court shall:

(A) Order the Clerk to collect all Family Court records pertaining to the movant's arrest, record, or adjudication and cause to be purged any computerized record;

(B) Expressly allow the Clerk to maintain a record so long as the record is not retrievable by the identification of the movant; and

(C) Order the Clerk to file under seal all Family Court records retrieved pursuant to this section, together with the certifications filed pursuant to this subsection by the prosecutor, any relevant law enforcement agency, the Department of Youth Rehabilitative Services, and any other public or private agencies or institutions that provided supervision or treatment, or had custody of the person, if the supervision, treatment, or custody was under an order issued by the Family Court, within 7 days after receipt of such records.

(7) The Clerk shall place the records ordered sealed by the Family Court in a special file, appropriately and securely indexed in order to protect its confidentiality. Unless otherwise ordered by the Family Court, the Clerk shall reply in response to inquiries concerning the existence of records which have been sealed pursuant to this chapter that no records are available.

(8) Once notified, any District agency in possession of a person's record shall seal, expunge, and otherwise maintain the record so that the record is in compliance with any order issued by the Family Court pursuant to this section.

(i) The effect of relief pursuant to this section shall be to restore the movant, in the contemplation of the law, to the status he or she occupied before being arrested or charged. No person as to whom such relief has been granted shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge his or her arrest, or charge, or trial in response to any inquiry made of him or her for any purpose.

(j) A motion to seal filed with the Family Court pursuant to this chapter shall state grounds upon which

eligibility for sealing is based on facts in support of the person's claim. It shall be accompanied by a statement of points and authorities in support of the motion, and any appropriate exhibits, affidavits, and supporting documents. A copy of the motion shall be served upon the prosecutor. The prosecutor shall not be required to respond to the motion unless ordered to do so by the Family Court pursuant to subsection (1) of this section.

(k) If it plainly appears from the face of the motion, any accompanying exhibits, affidavits, and documents, and the record of any prior proceedings in the case, that the movant is not eligible for relief or is not entitled to relief, the Family Court may dismiss or deny the motion.

(l) If the motion is not dismissed or denied after initial review, the Family Court shall order the prosecutor to file a response to the motion. The prosecutor shall file the response within 60 days of the issuance of the order except where the arrest was not presented to the prosecutor for a charging decision, in which case the prosecutor shall file the response within 90 days of the issuance of the order.

(m) Upon the filing of the prosecutor's response, the Family Court shall determine whether a hearing is required.

(n) If the Family Court determines that a hearing is required, the hearing shall be scheduled promptly.

(o) At the hearing, the movant and the prosecutor may present witnesses and information by proffer or otherwise. Hearsay evidence shall be admissible.

(p) An order dismissing, granting, or denying the motion shall be in writing and include reasons.

(q) The Family Court shall not be required to entertain a second or successive motion for similar relief on behalf of the same movant regarding the same offenses or arrests unless the previous motion was dismissed or denied without prejudice.

(r) An order dismissing, granting, or denying a motion for sealing is a final order for purposes of appeal.

(s) Records sealed pursuant to this section shall be opened only on order of the Family Court upon a showing of compelling need, except that, upon request, the movant shall be entitled to a copy of the sealed records to the extent that such records would have been available to the movant before relief under this section was granted. A request for access to sealed court records may be made ex parte.

(t) Any person, upon making inquiry of the Family Court concerning the existence of records of arrest, court proceedings, or adjudications involving an individual, shall be entitled to rely, for any purpose under the law, upon the clerk's response that no records are available under subsection (h)(7) of this section with respect to any issue about that person's knowledge of the individual's record.

(Mar. 8, 2011, D.C. Law 18-284, § 3(h), 57 DCR 10477.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-284, see notes under § 16-2301.

§ 16-2336. UNLAWFUL DISCLOSURE OF RECORDS; PENALTIES.

Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of sections 16-2331 through 16-2335, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia.

(July 29, 1970, 84 Stat. 543, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; Apr. 30, 1988, D.C. Law 7-104, § 4(q), 35 DCR 147.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2336.

1973 Ed., § 16-2336.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 16-2316.

§ 16-2337. ADDITIONAL POWERS OF THE DIRECTOR OF SOCIAL SERVICES.

In addition to the powers and duties prescribed in section 11-1722, the Director of Social Services shall have power to take into custody and place in detention or shelter care, in accordance with this subchapter, children who are under his supervision as delinquent or in need of supervision, children on probation and under the Director's supervision, when the Director has reasonable cause to believe they have violated one or more conditions of their probation, or children who have run away from agencies or institutions to which they were committed under this subchapter.

(July 29, 1970, 84 Stat. 543, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; Apr. 20, 1999, D.C. Law 12-258, § 2(b), 46 DCR 1314; Apr. 4, 2001, D.C. Law 13-277, § 3(a)(8), 48 DCR 2043.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2337.

1973 Ed., § 16-2337.

Effect of Amendments

D.C. Law 13-277 substituted "or" for ",," following "delinquent".

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-258, see Historical and Statutory Notes following § 16-2309.

For D.C. Law 13-277, see notes following § 16-2301.

§ 16-2338. EMERGENCY MEDICAL TREATMENT.

Nothing in this subchapter shall prevent a public agency having custody of a child who is under jurisdiction of the Division from providing the child with emergency medical treatment.

(July 29, 1970, 84 Stat. 543, Pub. L. 91-358, title I, § 121(a); Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2338.

1973 Ed., § 16-2338.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2339. IMMUNITY FOR JUVENILES WHO ARE WITNESSES IN JUVENILE PROCEEDINGS.

(a) Whenever a child, other than a child transferred for criminal prosecution pursuant to section 16-2307, who is called as a witness refuses on the basis of the privilege against self-incrimination to testify or provide other information in or ancillary to a delinquency proceeding brought under this chapter in the Family Division, and the person presiding over the proceeding communicates to the witness an order issued under subsection (c) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination. However, no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness except in a proceeding for perjury, giving a false statement, or otherwise failing to comply with the order.

(b) The Corporation Counsel may request an order under subsection (c) of this section when the testimony or other information may be necessary to the public interest, and the child called as a witness has refused or is likely to refuse to testify or provide other information on the basis of the privilege against self-incrimination.

(c) When any child, other than a child transferred for criminal prosecution pursuant to section 16-2307, has been or may be called to testify or provide other information in or ancillary to a delinquency proceeding brought under this chapter in the Family Division, and the Corporation Counsel has made a request under subsection (b) of this section, the judge presiding over the proceeding shall issue an order requiring the child to give testimony or provide other information which was refused on the basis of the privilege against self-incrimination. An order issued pursuant to this subsection shall become effective as provided in

subsection (a) of this section.

(May 21, 1994, D.C. Law 10-118, § 2, 41 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2339.

Legislative History of Laws

Law 10-118, the "Immunity for Juveniles Who are Witness in Juvenile Proceedings Act of 1994," was introduced in Council and assigned Bill No. 10-271, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on February 1, 1994, and March 1, 1994, respectively. Signed by the Mayor on March 17, 1994, it was assigned Act No. 10-208 and transmitted to both Houses of Congress for its review. D.C. Law 10-118 became effective on May 21, 1994.

§ 16-2340. RIGHTS OF VICTIMS OR EYEWITNESSES IN DELINQUENCY PROCEEDINGS.

(a) A victim or a eyewitness of a delinquent act should:

- (1) Be treated with dignity, respect, courtesy, sensitivity, and with respect for the victim's or eyewitness' privacy;
- (2) Be notified in advance of dates and times of juvenile factfinding hearings, transfer hearings, disposition hearings, and post-disposition hearings;
- (3) During any phase of the investigative proceedings or court proceedings, be provided, to the extent practicable, a waiting area that is separate from the child alleged to be delinquent and the family and friends of the child alleged to be delinquent;
- (4) Be informed by the appropriate juvenile justice agency of financial assistance, criminal injuries compensation, and any other social services available to the victim, and receive assistance or information on how to apply for such programs;
- (5) Be advised of the right to have stolen or other property promptly returned and, on written request, have the property promptly returned by law enforcement agencies when means can be employed to otherwise satisfy evidentiary requirements for prosecution, unless there is a compelling law enforcement reason for retaining the stolen property; and
- (6) Be informed, in appropriate cases, by the Corporation Counsel of the right to request restitution.

(b) A victim and the victim's immediate family members have the right to submit a victim impact statement in all cases and have the victim impact statement considered in the disposition of the case. The Corporation Counsel and the Director of Social Services shall inform the victim and the victim's immediate family members or caretaker, or their duly authorized attorney, of such right.

(c) Before, during, and immediately after any court proceeding, the court shall provide appropriate safeguards to minimize the contact that may occur between the respondent, or respondent's family and witnesses for respondent, and the victim, eyewitnesses for the Corporation Counsel, and the family of the victim or the Corporation Counsel's eyewitnesses.

(d) Except as otherwise mandated by law, the District government shall not be required to disclose the names or addresses of its witnesses prior to a hearing.

(e) The respondent, the respondent's attorney or another person acting on behalf of the respondent shall clearly identify himself or herself as being, representing, or acting on behalf of the respondent at the beginning of any contact with the victim, the victim's family, or other persons believed to be eyewitnesses to the offenses charged.

(f) Nothing in this section shall be construed as creating a cause of action against the District of Columbia, any public official, employee, or public agency responsible for implementing or carrying out the provisions of this section.

(Mar. 17, 2005, D.C. Law 15-261, § 602(h), 52 DCR 1188.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-261, see notes following § 16-2301.

SUBCHAPTER II. PARENTAGE PROCEEDINGS.

§ 16-2341. REPRESENTATION.

(a) Where a public support burden has been incurred or is threatened, or where an individual seeks assistance pursuant to part D in title IV of the Social Security Act approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.), the Corporation Counsel or an assistant may bring a civil action in the Family Division to enforce support of any parent or child against an absent parent.

(b) In all cases over which the Division has jurisdiction under paragraphs (3), (4), (10), and (11) of section 11-1101, where the court deems it necessary and proper, an attorney shall be appointed by the court to represent the respondent.

(c) Nothing in this section shall be construed to interfere with the right of an individual to file a civil action over which the Division has jurisdiction under the paragraphs of section 11-1101 referred to in subsection (b).

(Dec. 23, 1963, 77 Stat. 591, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 544, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(a), 23 DCR 2544; Feb. 24, 1987, D.C. Law 6-166, § 33(a)(6), 33 DCR 6710; Mar. 24, 1998, D.C. Law 12-81, § 10(ff), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2341.

1973 Ed., § 16-2341.

Legislative History of Laws

Law 1-87, the "Anti-Sex Discriminatory Language Act," was introduced in Council and assigned Bill No. 1-36, which was referred to the Committee on the Judiciary and Criminal Law. The Bill was adopted on first and second readings on June 15, 1976, and June 29, 1976, respectively. Signed by the Mayor on July 27, 1976, it was assigned Act No. 1-143 and transmitted to both Houses of Congress for its review.

Law 6-166, the "District of Columbia Child Support Enforcement Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-134, which was referred to the Committee on Human Services and reassigned to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 8, 1986, and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-212 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

§ 16-2342. WHO MAY BRING A COMPLAINT; TIME.

(a) A proceeding to determine parentage may be brought by the District of Columbia, a person whose parentage of the child is to be adjudicated, a child's mother, putative father, guardian, legal or physical custodian, the IV-D agency, the person whose parentage is to be determined, if an adult, or a licensed child-placing agency.

(b) A proceeding to determine parentage and provide for the support of a child with no presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2) may be instituted after four months of pregnancy or at anytime until the child's twenty-first birthday.

(c) Except as otherwise provided in subsection (d) of this section, a proceeding to rebut the presumption of parentage of a child having a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2) shall be commenced not later than 2 years after the birth of the child, after which time the presumption becomes conclusive.

(d) A proceeding seeking to disprove the parent-child relationship between a child and the child's presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2) may be maintained at any time if the court determines that the presumed parent did not live with the child's mother during the 300 days before the birth of the child and never openly held out the child as his or her own.

(Dec. 23, 1963, 77 Stat. 591, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 544, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(b), 23 DCR 2544; Sept. 26, 1984, D.C. Law 5-123, § 2, 31 DCR 4056; Apr. 3, 2001, D.C. Law 13-269, § 106(k), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(h), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2342.

1973 Ed., § 16-2342.

Effect of Amendments

D.C. Law 13-269 rewrote the section heading which formerly read: "Time of bringing complaint.", redesignated former subsec. (a) as subsec. (b); added subsec. (a); and, in subsec. (b), inserted "This section shall apply, as of August 16, 1984, to the establishment of paternity of a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 21 years was then in effect in the jurisdiction in which the action was brought."

D.C. Law 18-33 rewrote the section, which had read as follows:

"(a) A proceeding to determine parentage may be brought by the District of Columbia, a person whose parentage of the child is to be adjudicated, a child's mother, putative father, guardian, legal or physical custodian, the IV-D agency, the person whose parentage is to be determined, if an adult, or a licensed child-placing agency.

"(b) Proceedings over which the Division has jurisdiction under D.C. Official Code, sec. 11-1101(3) and (11) to establish parentage and provide for the support of a child may be instituted after four months of pregnancy or at anytime until the child's twenty-first birthday. This section shall apply, as of August 16, 1984, to the establishment of paternity of a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 21 years was then in effect in the jurisdiction in which the action was brought."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(m) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 5(m) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(m) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 105(m) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Emergency Act Amendments

For the temporary amendment of section, see § 5(m) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(m) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(m) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(m) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(m) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(m) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(m) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) amendment of section, see § 105(m) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581).

For temporary (90 day) amendment of section, see § 105(m) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(k) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 16-2341.

For legislative history of D.C. Law 5-123, see Historical and Statutory Notes following § 16-2343.1 [1981 Ed.].

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

§ 16-2342.01. VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY.

(a) The voluntary acknowledgment of paternity pursuant to section 16- 909.01(a)(1) shall:

(1) Create a conclusive presumption of paternity, consistent with § 16- 909.01(b), which shall be admissible as evidence of paternity; and

(2) Be recognized as a basis for seeking a child support obligation without requiring any further proceeding to establish paternity.

(b) Judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity pursuant to section 16- 909.1(a)(1).

(c) The IV-D agency is authorized to obtain voluntary acknowledgments of paternity in a manner that complies with the same requirements that apply to birthing hospitals as set forth in section 16-909.03.

(d) An acknowledgment shall be admissible in any judicial proceeding to determine parentage.

(Mar. 16, 1995, D.C. Law 10-223, § 2(h), 41 DCR 8051; Apr. 3, 2001, D.C. Law 13-269, § 106(l), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(i), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2342.1.

Effect of Amendments

D.C. Law 13-269 designated the initial paragraph as subsec. (a) and added subsecs. (b), (c), and (d).

D.C. Law 18-33, in subsec. (a)(1), substituted "paternity, consistent with § 16-909.01(b)," for "paternity,".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(n) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(n) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 105(n) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Emergency Act Amendments

For temporary amendment of section, see § 5(o) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(o) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), § 5(o) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(n) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(n) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) amendment of section, see § 105(n) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581).

For temporary (90 day) amendment of section, see § 105(n) of the Child Support and Welfare Reform

Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(l) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

Law 10-223, the "Paternity Establishment Act of 1994," was introduced in Council and assigned Bill No. 10-777, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 15, 1994, it was assigned Act No. 10-360 and transmitted to both Houses of Congress for its review. D.C. Law 10-223 became effective on March 16, 1995.

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

Miscellaneous Notes

Mayor authorized to issue rules: Section 3 of D.C. Law 10-223 provided that, pursuant to Chapter 15 of Title 1 [Chapter 5 of Title 2, 2001 Ed.], the Mayor may issue rules to implement the provisions of the act.

Section 28(c)(6) of D.C. Law 15-354 provides that the section designation of § 16-2342.1 of the District of Columbia Official Code is redesignated as § 16-2342.01.

§ 16-2343. TESTS TO ESTABLISH PARENTAGE.

(a) When the Division has jurisdiction of actions or proceedings under section 11-1101, the court, on its own motion, may require, or, on the motion of a party, shall require, the child and all other parties to submit to medical or genetic tests, unless:

(1) A party has established or is awaiting determination of a claim of good cause for failure to cooperate with paternity establishment pursuant to section 4-217.09;

(2) A legal finding of paternity has been made by a court or administrative entity of competent jurisdiction and has not been overturned on appeal, unless a party has made a showing pursuant to Superior Court Domestic Relations Rule 60(b) or section 16-909(c-1) (or the applicable rule of another jurisdiction, if the finding was made in another state) that supports setting aside the judgment, and genetic or medical testing would aid in resolving whether the judgment should be set aside;

(3) The parties have signed a voluntary acknowledgment of paternity pursuant to section 16-909.01(a) or the law and procedures of another state, after December 23, 1997, and have not made a legally-effective rescission of the acknowledgment;

(4) The child was conceived through artificial insemination and the donor is not a parent pursuant to § 16-909(e)(2); or

(5) The child has a presumed parent under § 16-909(a) (1) through (4) or § 16-909(a-1)(2) and no proceeding to rebut the presumption was filed within the time provided in § 16-2342(c) or (d).

(a-1)(1) When a child does not have a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2), the IV-D agency shall require the child and all other parties to submit to medical or genetic tests, subject to exemptions for good cause pursuant to section 4-217.09, if:

(A) A party submits a sworn statement alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(B) A party contests an original test result and seeks additional testing, upon request and advance payment by the contestant.

(2) In all other cases in which a child does not have a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1) (2), the IV-D agency may require the child and all other parties to submit to medical or genetic tests when paternity is contested, subject to exemptions for good cause pursuant to section 4-217.09.

(b)(1) Tests shall be performed by persons qualified as examiners of genetic markers present in the human body.

(2) The examiners may be appointed by the court, the IV-D agency, or chosen by consent of the parties.

(c)(1) Except as provided pursuant to subsection (a-1)(1)(B) of this section, the costs of any medical or genetic tests ordered by the IV-D agency shall be paid by the IV-D agency, subject to recoupment from the putative father if paternity is established. The costs of any medical or genetic tests not ordered by the IV-D agency, and the costs of any expert witness appointed by the court shall be paid by the parties.

(2) Where the District of Columbia is a party, the court may order that the District of Columbia pay the

costs upon a finding that the alleged parent does not have sufficient resources to pay the costs.

(Dec. 23, 1963, 77 Stat. 591, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 544, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(c), 23 DCR 2544; Sept. 26, 1984, D.C. Law 5-123, § 3, 31 DCR 4056; Apr. 30, 1988, D.C. Law 7-104, § 4(r), 35 DCR 147; May 15, 1990, D.C. Law 8-126, § 2(a), 37 DCR 2091; Apr. 3, 2001, D.C. Law 13-269, § 106(m), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(j), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2343.

1973 Ed., § 16-2343.

Effect of Amendments

D.C. Law 13-269 rewrote subsec. (a) which formerly read:

"(a)(1) When the Division has jurisdiction of actions or proceedings under section 11-1101, the court, on its own motion, may require, or on the motion of a party, shall require the child, the mother, an alleged parent, or the other parent to submit to medical, genetic blood or tissue grouping tests.

"(2) The tests may include the human leukocyte antigen test."

; added subsec. (a-1); in subsec. (b)(2) inserted "or the IV-D agency," following "court", and rewrote subsec. (c)(1) which formerly read:

"(c)(1) The costs for the tests and expert witness appointed by the court shall be paid by the parties."

D.C. Law 18-33, in subsec. (a), deleted "or" at the end of par. (3), rewrote par. (4), and added par. (5); and, in subsec. (a-1), substituted "When a child does not have a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1)(2), the IV-D agency" for "The IV-D agency" in par. (1), and substituted "In all other cases in which a child does not have a presumed parent under § 16-909(a)(1) through (4) or § 16-909(a-1) (2)" for "In all other cases".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(in) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 5(n) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(o) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 105(o) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Emergency Act Amendments

For temporary amendment of section, see § 5(n) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(n) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(n) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(n) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(n) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(o) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(o) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) amendment of section, see § 105(o) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000,

47 DCR 581).

For temporary (90 day) amendment of section, see § 105(o) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(m) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 16-2341.

For legislative history of D.C. Law 5-123, see Historical and Statutory Notes following § 16-2343.01.

For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 16-2316.

Law 8-72, the "Genetic Tests for the Establishment of Paternity Amendment Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-429. The Bill was adopted on first and second readings on October 24, 1989, and November 7, 1989, respectively. Signed by the Mayor on November 13, 1989, it was assigned Act No. 8-111 and transmitted to both Houses of Congress for its review. D.C. Law 8-72 became effective on March 8, 1990.

Law 8-126, the "Genetic Tests for the Establishment of Paternity Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-336, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on February 13, 1990, and February 27, 1990, respectively. Signed by the Mayor on March 15, 1990, it was assigned Act No. 8-179 and transmitted to both Houses of Congress for its review.

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

Editor's Notes

Section 4(r) of D.C. Law 7-104 purported to substitute "Department of Human Services" for "Department of Public Health" apparently without regard to the amendment to this section by D.C. Law 5-123.

§ 16-2343.01. ADMISSIBILITY OF TESTS.

(a)(1) Expert reports that show the statistical probability of the alleged parent's paternity may be admissible into evidence.

(2) Certified documentation of the chain of custody of the test specimens is competent evidence to establish the chain of custody.

(3) Test results that show the statistical probability of the alleged parent's paternity shall be admitted into evidence unless a substantiated objection is made that the test did not comply with the requirements of this subchapter.

(b)(1) If the test results or the expert's analysis of the test results are disputed, a party must file its specific objections in writing with the court within 45 days of the date the results were mailed by the court to the party.

(2) The court shall not accept objections made less than 5 days prior to the date of trial.

(c) Unless a party timely objects pursuant to subsection (b) of this section, the following apply:

(1) The parties waive their objections to the testing procedures, the admission into evidence of the results of the test and the report on the statistical probability of paternity.

(2) The verified results of the tests and the report are admissible into evidence at a hearing or other proceeding without need for foundation testimony or other proof of authenticity or accuracy regardless of the presence or non-presence of parties having notice of the action.

(3) Whenever the results of the tests and report exclude the alleged parent as the parent of the child, that evidence shall be conclusive evidence of nonpaternity, unless contrary test results are received.

(d)(1) If the results of the tests and report of the evidence relating to the alleged parent's paternity of the child are disputed, the court, absent an agreement between the parties, shall resolve all disputes.

(2) The court may order that additional tests be made at the expense of the objecting party.

(e)(1) When a child has no presumed parent under § 16-909(a)(1) through (4) or under § 16-909(a-1)(2) and a genetic test result indicates a 99% probability that the putative father is the father of the child, if the genetic test is of the type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services and is performed by a laboratory approved by such body, there is a conclusive presumption of paternity and the Court shall enter a judgment finding the parentage of the child consistent with such result, upon the submission of the result and a

certifying affidavit from the laboratory, subject to the determination of any objection properly filed pursuant to subsection (b) of this section.

(2) When a child has a presumed parent under § 16-909(a)(1) through (4) or under § 16-909(a-1)(2) and a genetic test result indicates a 99% probability that the putative father is the father of the child, if the genetic test is of the type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services and is performed by a laboratory approved by such body, the Court shall determine parentage giving due consideration to the child's interests and the duration and stability of the relationship between the child, the presumed parent, and the putative parent.

(f) Bills for pregnancy, childbirth, and genetic testing are admissible as evidence without third-party foundation testimony and shall constitute prima facie evidence of the amounts incurred for such services or for testing on behalf of the child.

(Sept. 26, 1984, D.C. Law 5-123, § 3, 31 DCR 4056; Mar. 8, 1990, D.C. Law 8-72, § 2(b), 36 DCR 8008; May 15, 1990, D.C. Law 8-126, § 2(b), 37 DCR 2091; Mar. 16, 1995, D.C. Law 10-223, § 2(i), 41 DCR 8051; Apr. 3, 2001, D.C. Law 13-269, § 106(n), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(k), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2343.1.

Effect of Amendments

D.C. Law 13-269 rewrote subsec. (e) which formerly read:

"(e) A conclusive presumption of paternity shall be created upon a genetic test result and an affidavit from a laboratory, certified by the American Association of Blood Banks, that indicates a 99% probability that the putative father is the father of the child and the Division shall enter a judgment finding the parentage of the child."

; and added subsec. (f).

D.C. Law 18-33 rewrote subsec. (e), which had read as follows:

"(e) A genetic test result that indicates a 99% probability that the putative father is the father of the child shall create a conclusive presumption of paternity if the genetic test is of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services and is performed by a laboratory approved by such a body. The Court shall enter a judgment finding the parentage of the child consistent with such result, upon the submission of the result and a certifying affidavit from the laboratory, subject to the determination of any objection properly filed pursuant to subsection (b) of this section."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(p) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(p) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

Emergency Act Amendments

For temporary amendment of section, see § 5(p) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(p) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), § 5(p) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(p) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(p) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) amendment of section, see § 105(p) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581).

For temporary (90 day) amendment of section, see § 105(p) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(n) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

Law 5-123, the "Percentage and Support Proceedings Reform Act of 1984," was introduced in Council and assigned Bill No. 5-366, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 12, 1984, and June 26, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-175 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 8-72, see Historical and Statutory Notes following § 16-2343.

For legislative history of D.C. Law 8-126, see Historical and Statutory Notes following § 16-2343.

For legislative history of D.C. Law 10-223, see Historical and Statutory Notes following § 16-2342.01.

For legislative history of D.C. Law 12-210, see Historical and Statutory Notes following § 16-2342.

For D.C. Law 13-207, see notes following § 16-901.

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

Miscellaneous Notes

Mayor authorized to issue rules: See note to § 16-2342.01.

Section 28(c)(7) of D.C. Law 15-354 provides that the section designation of § 16-2343.1 of the District of Columbia Official Code is redesignated as § 16-2343.01.

§ 16-2343.02. SANCTIONS.

If any party refuses to submit to a test the party may be punished by contempt or by other sanctions that the court considers appropriate.

(Sept. 26, 1984, D.C. Law 5-123, § 3, 31 DCR 4056.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2343.2.

Legislative History of Laws

For legislative history of D.C. Law 5-123, see Historical and Statutory Notes following § 16-2343.01.

Miscellaneous Notes

Section 28(c)(7) of D.C. Law 15-354 provides that the section designation of § 16-2343.2 of the District of Columbia Official Code is redesignated as § 16-2343.02.

§ 16-2343.03. DEFAULT ORDER.

If a respondent fails to appear at a hearing in any case in which parentage is at issue, a default order shall be entered upon a showing that (1) the respondent was served with notice of the action by any method permitted pursuant to section 46-206(b), and (2) that the respondent received actual notice of the first, or any other hearing, where parentage is at issue which the respondent failed to attend. An ex parte hearing shall not be required before the entry of a default order.

(Mar. 16, 1995, D.C. Law 10-223, § 2(j), 41 DCR 8051; July 25, 1995, D.C. Law 11-30, § 14, 42 DCR 1547; Apr. 18, 1996, D.C. Law 11-110, § 66, 43 DCR 530; Apr. 3, 2001, D.C. Law 13-269, § 106(o), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(l), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2343.3.

Effect of Amendments

D.C. Law 13-269 rewrote the section which formerly read:

"In the event the defendant fails to appear, a default order shall be entered in a paternity case upon a showing of service of process on the defendant."

D.C. Law 18-33 substituted "respondent" for "putative father", "parentage" for "paternity", and "the respondent" for "he".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(o) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 5(q) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(q) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 105(q) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Temporary Addition of Section

For temporary (225 day) addition of section, see § 5(r) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) addition of section, see § 105(r) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

Emergency Act Amendments

For temporary amendment of section, see § 5(o) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), and § 5(o) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

For temporary amendment of section, see § 5(q) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(q) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), § 5(q) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary amendment of section, see § 105(q) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(q) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606). For temporary (90-day) addition of § 16-2343.4 [1981 Ed.], see § 105(r) of the same Act.

For temporary (90-day) amendment of section, see § 105(q) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678). For temporary (90-day) addition of § 16-2343.4 [1981 Ed.], see § 105(r) of the same Act.

For temporary (90-day) amendment of section, see § 105(q) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581). For temporary (90-day) addition of § 16-2343.4 [1981 Ed.], see § 105(r) of the same Act.

For temporary (90 day) amendment of section, see § 105(q) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(o) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For legislative history of D.C. Law 10-223, see Historical and Statutory Notes following § 16-2342.01.

Law 11-30, the "Technical Amendments Act of 1995," was introduced in Council and assigned Bill No. 11-58, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on

February 7, 1995 and March 7, 1995, respectively. Signed by the Mayor on March 22, 1995, it was assigned Act No. 11-32 and transmitted to both Houses of Congress for its review. D.C. Law 11-30 became effective on July 25, 1995.

For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 16-2301.

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

Miscellaneous Notes

Mayor authorized to issue rules: See note to § 16-2342.01.

Section 28(c)(7) of D.C. Law 15-354 provides that the section designation of § 16-2343.3 of the District of Columbia Official Code is redesignated as § 16-2343.03.

§ 16-2343.04. NO RIGHT TO JURY TRIAL.

The parties to an action to establish parentage are not entitled to a jury trial.

(Apr. 3, 2001, D.C. Law 13-269, § 106(p), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(m), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary addition of § 16-2343.4 [1981 Ed.], see § 5(r) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(r) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(r) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary addition of § 16-2343.4 [1981 Ed.], see § 105(r) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90 day) addition of section, see § 105(r) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, October 24, 2000, 47 DCR 9213).

For temporary (90 day) addition of section, see § 106(p) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

§ 16-2344. EXCLUSION OF PUBLIC.

Upon trial or proceedings over which the Division has jurisdiction under paragraph (3), (4), (10), or (11) of section 11-1101, the court may exclude the general public and, at the request of either party, shall exclude the general public.

(Dec. 23, 1963, 77 Stat. 592, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 544, Pub. L. 91-358, title I, § 121(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2344.

1973 Ed., § 16-2344.

§ 16-2345. NEW BIRTH RECORD UPON MARRIAGE OR DETERMINATION

OF PARENTS.

(a) When a certified copy of a marriage certificate is submitted to the Registrar, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the parentage of the child has been judicially determined or acknowledged by each of the parents, or when the parenthood of a child born out of wedlock has been established by judicial process or by acknowledgement by the person whose parenthood is thus determined, or when an agreement and affidavit that meet the requirements of section 16-909.01(a)(2) are submitted to the Registrar, or when a consent to parent a child born by artificial insemination pursuant to § 16-909(e)(1)(A) and § 7-205(e)(3A), is submitted to the Registrar, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The new birth certificate shall nowhere on its face show that the parentage has been established by judicial process or by acknowledgement. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division.

(b) Voluntary acknowledgments and adjudications of paternity by administrative processes that meet federal requirements and are obtained in accordance with sections 16-909.03 through 16-909.05 and 16-2342.01(c), shall be filed with the Registrar of Vital Records.

(Dec. 23, 1963, 77 Stat. 592, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 544, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(d), 23 DCR 2544; Apr. 7, 1977, D.C. Law 1-107, title I, § 112, 23 DCR 8737; Oct. 8, 1981, D.C. Law 4-34, § 29(g), 28 DCR 3271; Aug. 17, 1991, D.C. Law 9-39, § 2(e), 38 DCR 4970; Apr. 9, 1997, D.C. Law 11-255, § 18(i), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 10(gg), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-264, § 57(b)(1), 46 DCR 2118; Apr. 3, 2001, D.C. Law 13-269, § 106(q), 48 DCR 1270; July 18, 2009, D.C. Law 18-33, § 3(n), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2345.

1973 Ed., § 16-2345.

Effect of Amendments

D.C. Law 13-269 designated existing text as subsec. (a) and added subsec. (b).

D.C. Law 18-33, in the section heading, deleted "natural" preceding "parents"; and, in subsec. (a), substituted "the requirements of section 16-909.01(a)(2) are submitted to the Registrar, or when a consent to parent a child born by artificial insemination pursuant to § 16-909(e)(1)(A) and § 7-205(e)(3A), is submitted to the Registrar," for "the requirements of section 16-909.01(a)(2) are submitted to the Registrar,".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(s) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(s) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 105(s) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Emergency Act Amendments

For temporary amendment of section, see § 5(v) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(v) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(v) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(s) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(s) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) amendment of section, see § 105(s) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000,

47 DCR 581).

For temporary (90 day) amendment of section, see § 105(s) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(q) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 16-2341.

Law 1-107, the "Marriage and Divorce Act," was introduced in Council and assigned Bill No. 1-89, which was referred to the Committee on the Judiciary and Criminal Law. The Bill was adopted on amended first readings on July 27, 1976, and September 15, 1976, and second readings on November 22, 1976, and December 7, 1976. Signed by the Mayor on January 4, 1977, it was assigned Act No. 1-193 and transmitted to both Houses of Congress for its review.

Law 4-34, the "Vital Records Act of 1981," was introduced in Council and assigned Bill No. 4-161, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 16, 1981, and June 30, 1981, respectively. Signed by the Mayor on July 20, 1981, it was assigned Act No. 4-58 and transmitted to both Houses of Congress for its review.

Law 9-5, the "District of Columbia Paternity Establishment Temporary Act of 1991," was introduced in Council and assigned Bill No. 9-142. The Bill was adopted on first and second readings on March 5, 1991, and April 9, 1991, respectively. Signed by the Mayor on April 26, 1991, it was assigned Act No. 9-20 and transmitted to both Houses of Congress for its review.

Law 9-39, the "District of Columbia Paternity Establishment Act of 1991," was introduced in Council and assigned Bill No. 9-2, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 4, 1991, and July 2, 1991, respectively. Signed by the Mayor on July 24, 1991, it was assigned Act No. 9-76 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 16-2309.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

Law 12-264, the "Technical Amendments Acts of 1998," was introduced in Council and assigned Bill No. 12-804. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

§ 16-2346. CERTIFICATE TO REGISTRAR.

(a) Upon entry of a final judgment determining the parentage of a child, the clerk of the court shall forward a certificate to the Registrar of the District of Columbia, or his authorized representative in the jurisdiction in which the child was born, giving the names of the persons adjudged to be the parents of the child.

(b) Repealed.

(Dec. 23, 1963, 77 Stat. 592, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 545, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(e), 23 DCR 2544; Oct. 8, 1981, D.C. Law 4-34, § 29(h), 28 DCR 3271; July 18, 2008, D.C. Law 18-33, § 3(o), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2346.

1973 Ed., § 16-2346.

Effect of Amendments

D.C. Law 18-33, in subsec. (a), deleted "born out of wedlock" following "child", and substituted "parents" for "father and mother".

Legislative History of Laws

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 16-2341.

For legislative history of D.C. Law 4-34, see Historical and Statutory Notes following § 16-2345.

For Law 18-33, see notes following § 16-308.

§ 16-2347. DEATH OF RESPONDENT; LIABILITY OF ESTATE.

If the respondent dies after parentage has been established and prior to the time the child reaches the age at which the child ceases to be a minor, any sums due and unpaid under an order of the court at the time of his or her death shall constitute a valid claim against his or her estate.

(Dec. 23, 1963, 77 Stat. 592, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 545, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(f), 23 DCR 2544.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2347.

1973 Ed., § 16-2347.

Legislative History of Laws

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 16-2341.

§ 16-2348. PARENTAGE RECORDS; CONFIDENTIALITY; INSPECTION AND DISCLOSURE.

(a) Except on order of the Family Division, no records in a case over which the Division has jurisdiction under section 11-1101(11) shall be open to inspection by anyone other than the plaintiff, respondent, their attorneys of record, the IV-D agency, or authorized professional staff of the Superior Court. Any inspection shall be subject to the safeguards provided by section 16-925. The Family Division, upon proper showing, may authorize the furnishing of certified copies of the records or portions thereof to the respondent, the other parent, or custodian of the child, a party in interest, or their duly authorized attorneys. Certified copies of the records or portions thereof may be furnished, upon request, to the IV-D agency and the Corporation Counsel for use as evidence in nonsupport proceedings and to the Registrar as provided by section 16-2346(a).

(b) No person shall disclose, receive, or use records in violation of this section. Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia.

(Dec. 23, 1963, 77 Stat. 592, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 545, Pub. L. 91-358, title I, § 121(a); Oct. 1, 1976, D.C. Law 1-87, § 20(g), 23 DCR 2544; Oct. 8, 1981, D.C. Law 4-34, § 29(a), 28 DCR 3271; Apr. 30, 1988, D.C. Law 7-104, § 4(s), 35 DCR 147; Apr. 3, 2001, D.C. Law 13-269, § 106(r), 48 DCR 1270.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2348.

1973 Ed., § 16-2348.

Effect of Amendments

D.C. Law 13-269, in subsec. (a), added "the IV-D agency," following "attorneys of record,"; added "Any inspection shall be subject to the safeguards provided by section 16-925." following the first sentence and added "the IV-D agency and" following "furnished, upon request, to".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5(p) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 5(t) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) amendment of section, see § 105(t) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) amendment of section, see § 105(m) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

For temporary amendment of section, see § 5(p) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), and § 5(p) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

Section 16 of D.C. Act 12-309 provided for the application of the act.

For temporary amendment of section, see § 5(s) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(s) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(s) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary amendment of section, see § 105(t) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) amendment of section, see § 105(t) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606). For temporary (90-day) addition of §§ 16-2349 and 16-2349.1 [1981 Ed.], see § 105(u), (t) of the same Act.

For temporary (90-day) amendment of section, see § 105(t) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678). For temporary (90-day) addition of §§ 16-2349 and 16-2349.1 [1981 Ed.], see § 105(u), (t) of the same Act.

For temporary (90-day) amendment of section, see § 105(t) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581). For temporary (90-day) addition of §§ 16-2349 and 16-2349.1, see § 105(u), (t) of the same Act.

For temporary (90 day) amendment of section, see § 105(t) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, October 24, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(r) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For legislative history of D.C. Law 1-87, see Historical and Statutory Notes following § 16-2341.

For legislative history of D.C. Law 4-34, see Historical and Statutory Notes following § 16-2345.

For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 16-2316.

For D.C. Law 13-269, see notes following § 16-901.

Editor's Notes

Section 4(s) of D.C. Law 7-104 purported to substitute "Director of the Department of Human Services" for "Director of Public Health" in subsection (a) apparently without regard to the amendment of this section by D.C. Law 4-34.

§ 16-2349. INCLUSION OF SOCIAL SECURITY NUMBERS IN PARENTAGE RECORDS.

The social security number of the parents and child who are parties to a parentage determination or acknowledgment shall be included in the Superior Court and IV-D agency records relating to the determination or acknowledgment.

(Apr. 3, 2001, D.C. Law 13-269, § 106(s), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(p), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-33, in the section heading, substituted "parentage" for "paternity"; substituted "parents" for "mother, father," and "parentage" for "parents".

Temporary Addition of Section

For temporary (225 day) addition of section, see § 5(q) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) addition of section, see § 5(u) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) addition of section, see § 105(u) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) addition of section, see § 105(u) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Emergency Act Amendments

For temporary addition of § 16-2349 [1981 Ed.], see § 5(q) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114).

For temporary addition of § 16-2349 [1981 Ed.] and 16-2349.1 [1981 Ed.], see § 5(q) and (r) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

For temporary addition of § 16-2349 [1981 Ed.] and 16-2349.1 [1981 Ed.], see § 5(t) and (u) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(t) and (u) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(t) and (u) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary addition of § 16-2349 [1981 Ed.], see § 105(u) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary repeal of D.C. Law 12-210, see § 113 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90 day) amendment of section, see § 105(t) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, October 24, 2000, 47 DCR 9213).

For temporary (90 day) addition of section, see § 105(u) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, October 24, 2000, 47 DCR 9213).

For temporary (90 day) amendment of section, see § 106(s) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

§ 16-2349.01. CHILD SUPPORT PENDENTE LITE.

Upon motion of a party in a parentage or support action or proceeding, the Superior Court shall issue an order of child support pending a determination of parentage if there is clear and convincing evidence of parentage. Evidence of parentage may include a genetic test result that does not create a conclusive presumption of parentage pursuant to section 16-909(b-1)(1).

(Apr. 3, 2001, D.C. Law 13-269, § 106(t), 48 DCR 1270; July 18, 2008, D.C. Law 18-33, § 3(q), 56 DCR 4269.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-33 substituted "parentage" for "paternity".

Temporary Addition of Section

For temporary (225 day) addition of section, see § 5(r) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) addition of section, see § 5(v) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

For temporary (225 day) addition of section, see § 105(v) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1999 (D.C. Law 13-57, March 7, 2000, law notification 47 DCR 1979).

For temporary (225 day) addition of section, see § 105(v) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

Emergency Act Amendments

For temporary addition of § 16-2349.1 [1981 Ed.], see § 5(r) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. 12- 222, December 23, 1997, 44 DCR 114).

For temporary addition of § 16-2349.1 [1981 Ed.], see § 105(v) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90 day) addition of section, see § 105(v) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, October 24, 2000, 47 DCR 9213).

For temporary (90 day) addition of section, see § 106(t) of Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

Legislative History of Laws

For D.C. Law 13-269, see notes following § 16-901.

For Law 18-33, see notes following § 16-308.

Miscellaneous Notes

Section 28(c)(8) of D.C. Law 15-354 provides that the section designation of § 16-2349.1 of the District of Columbia Official Code is redesignated as § 16-2349.01.

SUBCHAPTER III. PROCEEDINGS REGARDING THE TERMINATION OF PARENTAL RIGHTS OF CERTAIN NEGLECTED CHILDREN.

§ 16-2351. PURPOSE OF THE SUBCHAPTER; CONSTRUCTION OF PROVISIONS.

(a) The general purposes of this subchapter are to:

- (1) encourage stability in the lives of certain children who have been adjudicated neglected and have been removed from the custody of their parent by providing judicial procedures for the permanent termination of the parent and child relationship in the circumstances set forth in this subchapter;
- (2) ensure that the constitutional rights of all parties are recognized and enforced in all proceedings conducted pursuant to this subchapter while ensuring that the fundamental needs of children are not subjugated to the interests of others; and
- (3) increase the opportunities for the prompt adoptive placement of children for whom parental rights have been terminated.

(b) This subchapter shall be liberally construed to promote the general purposes stated in this section.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2351.

1973 Ed., § 16-2351.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2352. DEFINITIONS.

(a) As used in this subchapter, unless the context otherwise requires:

- (1) "Parent and child relationship" includes all rights, powers, privileges, immunities, duties and obligations existing under law between a parent and child, including rights of inheritance. The words apply equally to every child and every parent regardless of the marital status of the parents of the child.

(2) "termination of the parent and child relationship" means the adjudication that a child is free from the custody and control of either or both of his or her living parents by means of a court order that completely severs and extinguishes the parent and child relationship.

(b) The terms found in this subchapter which are defined in section 16-2301 of this chapter shall be given the same definition herein.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2352.

1973 Ed., § 16-2352.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2353. GROUNDS FOR TERMINATION OF PARENT AND CHILD RELATIONSHIP.

(a) A judge may enter an order for the termination of the parent and child relationship when the judge finds from the evidence presented, after giving due consideration to the interests of all parties, that the termination is in the best interests of the child.

(b) In determining whether it is in the child's best interests that the parent and child relationship be terminated, a judge shall consider each of the following factors:

(1) the child's need for continuity of care and caretakers and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages;

(2) the physical, mental and emotional health of all individuals involved to the degree that such affects the welfare of the child, the decisive consideration being the physical, mental and emotional needs of the child;

(3) the quality of the interaction and interrelationship of the child with his or her parent, siblings, relative, and/or caretakers, including the foster parent;

(3A) the child was left by his or her parent, guardian, or custodian in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child was ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

(4) to the extent feasible, the child's opinion of his or her own best interests in the matter; and

(5) evidence that drug-related activity continues to exist in a child's home environment after intervention and services have been provided pursuant to section 106(a) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; § 4-1301.06(a)). Evidence of continued drug-activity shall be given great weight.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 4(b), (c), 37 DCR 50; June 8, 1990, D.C. Law 8-134, § 2(d), 37 DCR 2613; Mar. 24, 1998, D.C. Law 12-81, § 10(hh), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-264, § 57(b)(2), 46 DCR 2118.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2353.

1973 Ed., § 16-2353.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 8-87, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 8-134, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 16-2345.

§ 16-2354. MOTIONS.

(a) Except as provided by subsection (b)(3) of this section, a motion for the termination of the parent and child relationship may be filed by the District government or by the child through his or her legal representative.

(b) A motion for the termination of the parent and child relationship:

(1) May be filed when the child who is the subject of the motion has been adjudicated neglected at least 6 months prior to the filing of the motion and the child is in the court-ordered custody of a department, agency, institution, or person other than the parent;

(2) May be filed immediately when, despite reasonable efforts, the parent could not be located for the fact finding hearing and during the period from the child's removal from the home to the fact finding hearing; and

(3) Except as provided in subsections (c) and (g) of this section, shall be filed by the District government if:

(A) The child has been in court-ordered custody under the responsibility of the District for 15 of the most recent 22 months;

(B) The Division has determined the child to be abandoned;

(C) A court of competent jurisdiction has determined that the parent has:

(i) Committed murder of a child sibling or another child;

(ii) Committed voluntary manslaughter of a child sibling or another child;

(iii) Aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

(iv) Committed a felony assault that has resulted in serious bodily injury to the child who is the subject of the petition, a child sibling, or another child; or

(D) The Division has determined the child to be subject to intentional and severe mental abuse.

(c) The District government shall seek to be joined as a party to a motion filed by the child if any of the factors in subsection (b)(3) of this section apply and the child has filed an adoption petition.

(d) A motion for termination of the parent and child relationship shall include but not be limited to:

(1) The name, sex, date and place of birth, and current placement of the child;

(2) The name and title of the petitioner;

(3) The name and address of the child's parent;

(4) A plain and concise statement of the facts and opinions on which the termination of the parent and child relationship is sought;

(5) A specification as to the health of the child;

(6) A statement as to the general prospects for or the barriers, if any, to the adoption of the child; and

(7) A statement as to the various efforts taken by the moving party to locate the parent of the child.

(e) When any facts required pursuant to subsection (d) of this section are not known to the moving party, if he or she shall so state in the motion, or on a motion by any party, for good cause shown, the judge may direct the filing of a bill of particulars to inform the moving party of the precise nature of the allegations contained in the motion for the termination of the parent and child relationship.

(f) The Agency shall take steps to identify, recruit, process, and approve a qualified family for an adoption concurrently with the District government's filing of the motion or its joinder to the petition.

(g) The District government need not file a motion if the Agency determines and has documented in the case plan that:

(1) The child is being cared for by an approved kinship caregiver and adoption is not the child's permanency plan;

(2) A compelling reason for determining that filing such a motion would not be in the best interest of the child; or

(3) The District has not offered or provided to the family of the child, consistent with the time period in the case plan, such services as the District deems necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child pursuant to § 4-1301.09a.

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2354.

1973 Ed., § 16-2354.

Effect of Amendments

D.C. Law 13-136 rewrote this section, which previously read:

"(a) A motion for the termination of the parent and child relationship may be filed by the District of Columbia government or by the child through his or her legal representative.

"(b) A motion for the termination of the parent and child relationship may be filed only when the child who is the subject of the motion has been adjudicated neglected at least six (6) months prior to the filing of the motion and the child is in the court-ordered custody of a department, agency, institution or person other than the parent; except that the motion for termination may be filed immediately--

"(1) upon an adjudication that the child was abandoned; or

"(2) when, despite reasonable efforts, the parent could not be located for the factfinding hearing and during the three (3) months prior to the hearing.

"(c) A motion for the termination of the parent and child relationship shall include but not be limited to:

"(1) the name, sex, date and place of birth, and current placement of the child;

"(2) the name and title of the petitioner;

"(3) the name and address of the child's parent;

"(4) a plain and concise statement of the facts and opinions on which the termination of the parent and child relationship is sought;

"(5) a specification as to the health of the child;

"(6) a statement as to the general prospects for or the barriers, if any, to the adoption of the child; and

"(7) a statement as to the various efforts taken by the moving party to locate the parent of the child.

"(d) When any facts required pursuant to subsection (c) of this section are not known to the moving party, if he or she shall so state in the motion, or on a motion by any party, for good cause shown, the judge may direct the filing of a bill of particulars to inform the moving party of the precise nature of the allegations contained in the motion for the termination of the parent and child relationship."

D.C. Law 13-277 substituted "Agency" for "Department of Human Services" in subsecs. (f) and (g).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 301(f) of Adoption and Safe Families Temporary Amendment Act of 1999 (D.C. Law 13-56, March 7, 2000, law notification 47 DCR 1978).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 301(f) of the Adoption and Safe Families Emergency Amendment Act of 1999 (D.C. Act 13-117, July 28, 1999, 46 DCR 6558).

For temporary (90-day) amendment of section, see § 301(f) of the Adoption and Safe Families Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13- 178, November 2, 1999, 46 DCR 9714).

For temporary (90-day) amendment of section, see § 301(f) of the Adoption and Safe Families Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-240, January 11, 2000, 47 DCR 556).

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

Law 13-136, the "Adoption and Safe Families Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-214, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on February 1, 2000, and March 7, 2000, respectively. Signed by the Mayor on March 31, 2000, it was assigned Act No. 13-315 and transmitted to both Houses of Congress for its review. D.C. Law 13-136 became effective on June 27, 2000.

For D.C. Law 13-277, see notes following § 16-2301.

§ 16-2355. CONSIDERATION OF TERMINATION OF THE PARENT AND CHILD RELATIONSHIP AT REVIEW HEARINGS.

(a) After a child adjudicated neglected by the Division pursuant to this chapter has been committed by the Division to the custody of a department, agency or institution for more than eighteen (18) months and no hearing on a motion for the termination of the parent and child relationship has been held within the preceding twelve (12) months, the Division shall, at a review hearing, determine why a motion to terminate the parent and child relationship has not been filed.

(b) For each child who remains in custody for three (3) years or more, the Division shall, at each annual review hearing, determine why a motion to terminate the parent and child relationships has not been filed.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2355.

1973 Ed., § 16-2355.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2356. PARTIES.

Parties to a proceeding for the termination of the parent and child relationship shall be the child, the parent of the named child, and the agency having the legal custody of the child. The judge may at his or her discretion, name on his or her own motion or in response to a motion for joinder or intervention, join additional parties to a proceeding to terminate the parent and child relationship.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2356.

1973 Ed., § 16-2356.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2357. NOTICE.

(a) When a motion to terminate the parent and child relationship is filed, a judge shall promptly set a time for an adjudicatory hearing and shall cause notice thereof to be given to all parties.

(b) A judge shall direct the issuance to and personal service upon the child's parent of a summons together with a copy of the motion to terminate the parent and child relationship.

(c) When it is appropriate to the proper disposition of the case, a judge may direct the service of a summons upon other persons.

(d) If a personal service under this section cannot be effected, then notice shall be made constructively pursuant to rules of the Superior Court of the District of Columbia.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2357.

1973 Ed., § 16-2357.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2358. CONDUCT OF HEARINGS.

(a) All hearings and proceedings on a motion to terminate the parent and child relationship shall be held by the judge, without a jury.

(b) All hearings and proceedings held pursuant to this subchapter shall be recorded by appropriate means.

(c) Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings and proceedings arising pursuant to this subchapter. Only persons necessary to such hearings and proceedings shall be admitted, but a judge may, pursuant to rules of the Superior Court of the District of Columbia, admit such other persons as have a proper interest in the case or the work of the Division on the condition that they refrain from divulging information identifying the child involved in the proceedings or members of his or her family.

(d) If a judge finds it is in the best interests of the child, he or she may temporarily exclude the child from any proceeding. Under no circumstances, however, may counsel in the case be excluded.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2358.

1973 Ed., § 16-2358.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2359. ADJUDICATORY HEARING.

(a) A judge shall begin the adjudicatory hearing by determining whether all parties are present and whether proper notice of the hearing has been given. If the parent has been given proper notice but has failed to appear the judge may proceed in his or her absence.

(b) A judge shall hear evidence presented by the moving party and the burden of proof shall rest upon the moving party.

(c) Every party shall have the right to present evidence, to be heard in his or her own behalf and to cross-examine witnesses called by another party.

(d) All evidence which is relevant, material, and competent to the issues before the judge shall be admitted.

(e) Notwithstanding the provisions of D.C. Official Code, sections 14-306 and 14-307, neither the spouse or domestic partner privilege nor the physician/client or mental health professional/client privilege shall be a ground for excluding evidence in any proceeding brought under this subchapter.

(f) A judge may enter an order permanently terminating the parent and child relationship after considering all of the evidence presented and after making a determination based upon clear and convincing evidence that termination of the parent and child relationship is in the best interest of the child. If a judge does not find that sufficient grounds exist for termination, the motion for termination of the parent and child relationship may be dismissed.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 3, 1979, D.C. Law 2-136, § 805(d), 25 DCR 5055; Sept. 6, 1980, D.C. Law 3-85, § 4, 27 DCR 2900; Sept. 12, 2008, D.C. Law 17-231, § 20(h), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2359.

1973 Ed., § 16-2359.

Effect of Amendments

D.C. Law 17-231, in subsec. (e), substituted "spouse or domestic partner" for "husband/wife".

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

Law 2-136, the "District of Columbia Mental Health Information Act of 1978," was introduced in Council and assigned Bill No. 2-144, which was referred to the Committee on the Judiciary. The Bill was adopted on first, amended first, second amended first, and second readings on July 11, 1978, July 25, 1978, September 19, 1978, and October 3, 1978, respectively. Signed by the Mayor on November 1, 1978, it was assigned Act No. 2-292 and transmitted to both Houses of Congress for its review.

Law 3-85, the "Enacted Titles Numbering and Amendment Act of 1980," was introduced in Council and

assigned Bill No. 3-296, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 20, 1980, and June 3, 1980, respectively. Signed by the Mayor on June 20, 1980, it was assigned Act No. 3-202 and transmitted to both Houses of Congress for its review.

For Law 17-231, see notes following § 16-904.

§ 16-2360. DISPOSITION AFTER TERMINATION.

(a) If a judge finds that sufficient grounds exist for the termination of the parent and child relationship, the judge shall so order and decree and shall vest the legal custody of the child in a department, agency or institution.

(b) The department, agency or institution to which a child is committed after the termination of the parent and child relationship pursuant to this subchapter shall be responsible for seeking the prompt adoptive placement of the child and, if an adoptive placement has not been made within three (3) months, the department, agency, or institution shall list the child on all appropriate local, regional and national adoption exchanges. If an adoptive placement has not been made within six (6) months of the termination, a hearing shall be held and within every six (6) months thereafter the department, agency or institution shall report to the Division on its efforts to secure an adoptive placement, including but not limited to the following information:

(1) the extent to which an adoption has been explored with the child's foster parent and any reasons why an adoption by the foster parent is not appropriate;

(2) all adoption exchanges with which the child has been listed and the date of each listing; and

(3) the limitations placed on the families to be considered for the adoption of the child.

(c) The information provided pursuant to subsection (b) shall be provided to the guardian ad litem at least ten (10) days prior to a review hearing.

(d) A notice of a review hearing shall be given as prescribed by rules of the Superior Court of the District of Columbia to the child's guardian ad litem. Any person with whom the child has been living for six (6) months or more shall be given notice of hearings and shall upon his or her request be joined as a party to a review hearing.

(e) If the Division finds that the department, agency or institution vested with the custody of the child is not making sufficient efforts to secure an adoptive placement for the child or that inappropriate limitations have been placed on potential adoptive families, the Division may order such additional efforts as it deems appropriate or may order that the imposition of inappropriate limitations be eliminated or may transfer the power to consent to an adoption together with the vestment of legal custody to any other licensed child placement agency.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2360.

1973 Ed., § 16-2360.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2361. EFFECT OF TERMINATION DECREE.

(a) An order terminating the parent and child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties and obligations with respect to each other, except the right of the child to inherit from his or her parent. The right of inheritance of the child shall be terminated only by a final order of adoption.

(b) When an order terminating the parent and child relationship has been issued, the parent whose right has been terminated shall not thereafter be entitled to notice of proceedings for the adoption of the child by another nor shall such parent have any right to object to the adoption or otherwise to participate in the proceedings.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(jj), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2361.

1973 Ed., § 16-2361.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

§ 16-2362. DECREES.

(a) Every order of the Division terminating the parent and child relationship shall be in writing and shall recite the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

(b) Notwithstanding the provisions of § 16-2330, all orders terminating the parent and child relationship entered pursuant to this subchapter shall not be final and effective until the time for noting an appeal has expired and, if a notice of appeal has been entered, the order shall not become effective until the date of the final disposition of the appeal.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(kk), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2362.

1973 Ed., § 16-2362.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

§ 16-2363. CONFIDENTIALITY OF RECORDS.

The provisions of §§ 16-2332 and 16-2333 shall apply to all juvenile case records and juvenile social records as defined therein which are created pursuant to the proceedings under this subchapter.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(ll), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2363.

1973 Ed., § 16-2363.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 16-2301.

§ 16-2364. UNLAWFUL DISCLOSURE.

Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of section 16-2363 of this subchapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than two hundred and fifty dollars (\$250) or imprisoned for not more than ninety (90) days, or both. A violation of this section shall be prosecuted by the Corporation Counsel of the District of Columbia.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2364.

1973 Ed., § 16-2364.

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

§ 16-2365. TERMINATION DECREES OF OTHER JURISDICTIONS.

If the parent and child relationship has been terminated by judicial decree in another jurisdiction that decree, unless it is against the public policy of the District of Columbia, shall have the same force and effect in the District of Columbia as to matters within the jurisdiction of the District of Columbia court.

(Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2365.

1973 Ed., § 16-2365.

Legislative History of Laws

For legislative history of D.C. Law 2-22, see Historical and Statutory Notes following § 16-2301.

SUBCHAPTER IV. COURT-APPOINTED SPECIAL ADVOCATES.

§ 16-2371. DEFINITIONS.

For the purpose of this subchapter, the term "advocate" means a court-appointed special advocate and the term "program" means the court-appointed special advocate program established under this subchapter.

(Mar. 16, 1995, D.C. Law 10-228, § 2(b), 42 DCR 7.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2371.

Legislative History of Laws

Law 10-228, the "Court-Appointed Special Advocate Program Act of 1994," was introduced in Council and assigned Bill No. 10-326, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-369 and transmitted to both Houses of Congress for its review. D.C. Law 10-228 became effective on March 16, 1995.

§ 16-2372. COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) There is established a court-appointed special advocate program to provide trained volunteers whose primary purpose is to ensure that children who are the subject of certain family division proceedings of the Superior Court of the District of Columbia are provided with appropriate service and case planning that is in their best interest.

(b) The court, in any appropriate action, may appoint an individual provided by the court-appointed special advocate program.

(c) The program shall be administered by the Family Division of the Superior Court of the District of Columbia.

(d) The Family Division shall report annually to the Chief Judge of the Superior Court of the District of Columbia, who shall report to the Council of the District of Columbia regarding the operation of the program.

(e) The Board of Judges of the Superior Court of the District of Columbia may adopt rules governing the implementation and operation of the program, including, but not limited to, training, selection, and supervision of volunteers.

(f) An advocate or a member of the administrative staff of the program is not liable for acts or omissions in providing services or performing duties on behalf of the program, unless the act or omission constitutes

reckless, willful, or wanton misconduct or intentionally tortious conduct.

(g) A court-appointed special advocate shall have access to and the use of the court record in a proceeding in which the advocate has been appointed.

(Mar. 16, 1995, D.C. Law 10-228, § 2(b), 42 DCR 7.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-2372.

Emergency Act Amendments

For temporary (90-day) addition of §§ 16-2381 [1981 Ed.] to 16-2399 [1981 Ed.], see § 3 of the Foster Children's Guardianship Emergency Act of 2000 (D.C. Act 13-433, August 14, 2000, 47 DCR 7467).

Legislative History of Laws

For legislative history of D.C. Law 10-228, see Historical and Statutory Notes following § 16-2371.

SUBCHAPTER V. PERMANENT GUARDIANSHIP.

§ 16-2381. PURPOSE OF THE SUBCHAPTER; CONSTRUCTION OF PROVISIONS.

The general purpose of this subchapter is to:

(1) Encourage stability in the lives of certain children who have been adjudicated to be neglected and have been removed from the custody of their parent by providing judicial procedures for the creation of a permanent guardianship in the circumstances set forth in this subchapter;

(2) Ensure that the constitutional rights of all parties are recognized and enforced in all proceedings conducted pursuant to this subchapter while ensuring that the fundamental needs of children are not subjugated to the interests of others; and

(3) Increase the opportunities for the prompt permanent placement of children, especially with relatives, without ongoing government supervision.

(Apr. 4, 2001, D.C. Law 13-273, § 3(c), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 3(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

Law 13-273, the "Foster Children's Guardianship Act of 2000", was introduced in Council and assigned Bill No. 13-763, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 16, 2001, it was assigned Act No. 13-566 and transmitted to both Houses of Congress for its review. D.C. Law 13-273 became effective on April 4, 2001.

Delegation of Authority

Delegation of Authority Pursuant to the Foster Children's Guardianship Congressional Review Emergency Act of 2001, Effective 2-13-01, DC Act 14-4, and Any Substantially Identical Successor Legislation, Including the Foster Children's Guardianship Act of 2000, see Mayor's Order 2001-38, March 20, 2001 (48 DCR 3438).

§ 16-2382. DEFINITIONS.

(a) For the purposes of this subchapter, the term:

- (1) "Agency having responsibility for the child" means the Mayor or his or her designee.
- (2) "Guardianship order" means the court document that establishes the permanent guardianship and enumerates the permanent guardian's rights and responsibilities concerning the care, custody, and control of the child.
- (3) "Health care" includes, but is not limited to, ordinary and emergency medical, dental, psychological, psychiatric, and mental health care and treatment.
- (4) "Permanent guardian" means an individual or individuals designated by the court pursuant to this subchapter.

(b) Except when inconsistent with this subchapter, the terms found in this subchapter shall be given the same definition as provided in section 16- 2301.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 3(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2383. GROUNDS FOR THE CREATION OF A PERMANENT GUARDIANSHIP.

- (a) A guardianship order may not be entered unless the child has been adjudicated to be neglected pursuant to section 16-2317 and has been living with the proposed permanent guardian for at least 6 months.
- (b) If the child is 14 years of age or older, the court shall designate the permanent guardian selected by the child unless the court finds that the designation is contrary to the child's best interests.
- (c) The court may issue a guardianship order only if the court finds that:
 - (1) The permanent guardianship is in the child's best interests;
 - (2) Adoption, termination of parental rights, or return to parent is not appropriate for the child; and
 - (3) The proposed permanent guardian is suitable and able to provide a safe and permanent home for the child.
- (d) In determining whether it is in the child's best interests that a permanent guardian be designated, the court shall consider each of the following factors:
 - (1) The child's need for continuity of care and caretakers, and for timely integration into a stable and permanent home, taking into account the differences in the development and the concept of time of children of different ages;
 - (2) The physical, mental, and emotional health of all individuals involved to the degree that each affects the welfare of the child, the decisive consideration being the physical, mental, and emotional needs of the child;
 - (3) The quality of the interaction and interrelationship of the child with his or her parent, siblings, relatives, and caretakers, including the proposed permanent guardian;
 - (4) To the extent feasible, the child's opinion of his or her own best interests in the matter; and
 - (5) Evidence that drug-related activity continues to exist in a child's home environment after intervention and services have been provided pursuant to section 6-2104.01. Evidence of continued drug-activity shall be given great weight.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 3(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2384. MOTIONS.

(a) A motion for permanent guardianship may be filed by the proposed permanent guardian, the District of Columbia government, or by the child through his or her legal representative.

(b) A motion for a permanent guardianship may be filed any time after a neglect petition is filed pursuant to section 16-2305.

(c) A motion for permanent guardianship shall include:

- (1) The name, sex, date and place of birth, and current placement of the child;
- (2) The proposed permanent guardian's name and relationship to the child;
- (3) The name and address of the child's parents;
- (4) A plain and concise statement of the facts and opinions on which the permanent guardianship is sought;
- (5) A description of the child's mental and physical health;
- (6) A statement why permanent guardianship, rather than adoption, termination of parental rights, or return to parent, is in the child's best interests;
- (7) A statement as to the various efforts taken by the moving party to locate the parent of the child;
- (8) An itemization of the child's assets;
- (9) A statement of compliance with Chapter 3 of Title 21, if applicable;
- (10) The name of proposed successor guardians, if any, and their relationship to the child and proposed permanent guardians;
- (11) Information required by Chapter 45 of Title 16; and
- (12) Written consents, if any, to the permanent guardianship.

(d) When any facts required pursuant to subsection (c) of this section are not known to the moving party, if he or she shall so state in the motion, or on a motion by any party, the court, for good cause shown, may direct the filing of a bill of particulars to inform the moving party of the precise nature of the allegations of neglect.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2385. PARTIES.

Parties to a permanent guardianship proceeding shall be the child, the parents of the named child, the proposed permanent guardian, the agency having the legal custody of the child, and the District of Columbia. The court may, at its discretion, on its own motion, or in response to a motion for joinder or intervention, join additional parties to a guardianship proceeding.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2386. NOTICE.

- (a) When a motion for permanent guardianship is filed, the court shall promptly set a time for an adjudicatory hearing and shall cause notice thereof to be given to all parties.
- (b) The court shall direct the issuance to and personal service upon the child's parents of a summons and a copy of the motion for permanent guardianship.
- (c) When it is appropriate to the proper disposition of the case, the court may direct the service of a summons upon other persons.
- (d) If personal service under this section cannot be effected, then notice shall be made constructively pursuant to rules of the Superior Court of the District of Columbia.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2387. CONDUCT OF HEARINGS.

- (a) All hearings and proceedings conducted pursuant to this subchapter shall be held by a judge, without a jury.
- (b) All hearings and proceedings conducted pursuant to this subchapter shall be recorded by appropriate means.
- (c) Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings and proceedings arising pursuant to this subchapter. Only persons necessary to such hearings and proceedings shall be admitted, but the court may, pursuant to rules of the Superior Court of the District

of Columbia, admit such other persons as have a proper interest in the case or the work of the Division on the condition that they refrain from divulging information identifying the child involved in the proceedings or members of his or her family.

(d) If the court finds it is in the child's best interests, the child may be temporarily excluded from any proceeding. Under no circumstances, however, may counsel in the case be excluded.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2388. ADJUDICATORY HEARINGS.

(a) The court shall begin the adjudicatory hearing by determining whether all parties are present and whether proper notice of the hearing has been given. If a parent has been given proper notice but fails to appear, the court may proceed in the parent's absence.

(b) The court shall hear evidence presented by the moving party and the burden of proof shall rest upon the moving party.

(c) Every party shall have the right to present evidence, to be heard in his or her own behalf, and to cross-examine witnesses called by another party.

(d) All evidence which is relevant, material, and competent to the issues before the court shall be admitted.

(e) Notwithstanding the provisions of sections 14-306 and 14-307, neither the spouse or domestic partner privilege nor the physician/client or mental health professional/client privilege shall be a ground for excluding evidence in any proceeding brought under this subchapter.

(f) The court may enter, modify, or terminate a guardianship order after considering all of the evidence presented, including the Mayor's report and recommendation, and after making a determination based upon a preponderance of the evidence that creation, modification, or termination of the guardianship order is in the child's best interests. If the court does not find that sufficient grounds exist to create, modify, or terminate a guardianship order, the motion may be dismissed.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637; Sept. 12, 2008, D.C. Law 17-231, § 20(i), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-231, in subsec. (e), substituted "spouse or domestic partner" for "husband/wife".

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2389. EFFECT OF GUARDIANSHIP ORDER.

- (a) Unless the court specifies otherwise, the permanent guardian shall maintain physical custody of the child and shall have the following rights and responsibilities concerning the child:
- (1) Protect, nurture, discipline, and educate the child;
 - (2) Provide food, clothing, shelter, education as required by law, and routine health care for the child;
 - (3) Consent to health care without liability by reason of the consent for injury to the child resulting from the negligence or acts of third persons unless a parent would have been liable in the circumstances;
 - (4) Authorize a release of health care and educational information;
 - (5) Authorize a release of information when consent of a parent is required by law, regulation, or policy;
 - (6) Consent to social and school activities of the child;
 - (7) Consent to military enlistment;
 - (8) Obtain representation for the child in legal actions; and
 - (9) Determine the nature and extent of the child's contact with other persons.
- (b) The permanent guardian is not liable to third persons by reason of the relationship for acts of the child.
- (c) Entry of a guardianship order does not terminate the parent and child relationship, including:
- (1) The right of the child to inherit from his or her parents;
 - (2) The parents' right to visit or contact the child (except as limited by the court);
 - (3) The parents' right to consent to the child's adoption;
 - (4) The parents' right to determine the child's religious affiliation; and
 - (5) The parents' responsibility to provide financial, medical, and other support for the child.
- (d) The guardianship order may specify the frequency and nature of visitation or contact between relatives and the child. The court may determine whether the visitation or contact is in the child's best interest.
- (e) Except as required by a motion under subsection (f) of this section, upon entry of a guardianship order, and during the period of time such an order remains in effect, the requirements of sections 16-2322 and 16-2323 shall be suspended.
- (f) The court shall make a permanency determination and close the neglect case upon motion by any party to the permanent guardianship proceeding if the court finds that such a determination is in the child's best interest.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399., see § 3(b) of the Foster Children's Guardianship Temporary Act of 2000 (D.C. Law 13-208, April 4, 2001, law notification 48 DCR 3239).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2390. JURISDICTION.

- (a) Subject to subsection (b) of this section, the court shall have jurisdiction to enter guardianship order and shall retain jurisdiction to enforce, modify, or terminate a guardianship order until a child reaches 21 years of age; provided, that when the child reaches 18 years of age, the child consents and the court finds it is in the best interest of the child.
- (b) A child who exits foster care to guardianship may not reenter foster care after age 18.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637; Sept. 24, 2010, D.C. Law 18-230, § 502(a), 57 DCR 6951.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-230 rewrote the section, which had read as follows:

"The court shall retain jurisdiction to enforce, modify, or terminate a guardianship order until the child reaches 18 years of age. If the court finds that it is in the child's best interest and if the child consents, the court may retain jurisdiction until the child reaches 21 years of age."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3(a) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

For temporary (90 day) amendment of section, see § 3(a) of Adoption and Guardianship Subsidy Emergency Amendment Act of 2010 (D.C. Act 18-393, May 7, 2010, 57 DCR 4346).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

For D.C. Law 13-208, see notes following § 16-2381.

For Law 18-230, see notes following § 16-309.

§ 16-2391. RELOCATION.

The permanent guardian shall not relocate with the child over 100 miles from his or her place of residence at the time the guardianship order is entered without filing a notice with the court, which is personally served on all parties, 15 business days before the relocation.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2392. GUARDIANSHIP ORDER; FINALITY; APPEALS; TRANSCRIPTS.

(a) Every guardianship order shall be in writing and shall recite the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

(b) Except as otherwise expressly provided by law, in all hearings and cases tried before the court

pursuant to this subchapter, the judgment of the court shall be final.

(c) In all appeals from decisions of the court with respect to an order under this subchapter, the child shall be identified only by initials in all transcripts, briefs, and other papers filed, and all necessary steps, as prescribed by rule of the District of Columbia Court of Appeals, shall be taken to protect the identity of the child.

(d) Upon the filing of a motion and supporting affidavit stating that he or she is financially unable to purchase a transcript, a party who has filed notice of appeal or of interlocutory appeal of an order under this subchapter shall be furnished, at no cost or at such part of cost as he or she is able to pay, so much of the transcript as is necessary to prepare adequately and support the appeal.

(e) An appeal does not operate to stay the order, judgment, or decree appealed from, but whenever the case is properly before the appellate court, that court, on application and hearing, may order otherwise if suitable provision is made in the order for the care and custody of the child.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2393. CONFIDENTIALITY OF RECORDS.

The provisions of sections 16-2332 and 16-2333 shall apply to all records and files that are created pursuant to proceedings under this subchapter.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2394. UNLAWFUL DISCLOSURE.

Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of section 16-2393 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$250 or imprisoned for not more than 90 days, or both. A violation of this section shall be prosecuted by the Corporation Counsel of the District of Columbia.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2395. MODIFICATION, TERMINATION, OR ENFORCEMENT OF THE GUARDIANSHIP ORDER.

(a) Any party may move the court to modify, terminate, or enforce a guardianship order or an order of child support created under this subchapter.

(b) Notice of a motion to modify, terminate, or enforce a guardianship order or an order of child support shall be personally served on all parties. If personal service under this section cannot be effected, then notice shall be made constructively pursuant to rules of the Superior Court of the District of Columbia.

(c) The court may issue an order of reference directing the Mayor to file a report and recommendation regarding the proposed modification or termination of the guardianship order within 45 days of the filing date of the motion.

(d) A guardianship order may be modified or terminated if the court finds, by a preponderance of the evidence, that there has been a substantial and material change in the child's circumstances subsequent to the entry of the guardianship order and that it is in the child's best interests to modify or terminate the guardianship order.

(e) The court shall hold an adjudicatory hearing as provided for in section 16-2388 before modifying or terminating a guardianship order and shall, at the conclusion of the hearing, enter a written order reciting the findings upon which such order is based, including findings pertaining to the court's jurisdiction.

(f) Upon entry of an order terminating the guardianship, the permanent guardian shall no longer be entitled to physical custody of the child, have any other parental rights and responsibilities concerning the child created under this subchapter, or have party status in any further proceeding brought under this subchapter.

(g) Upon entry of an order terminating the guardianship, the court shall hold a hearing pursuant to section 16-2323.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14- 4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2396. SUPPORT.

(a) Nothing under this subchapter shall preclude the permanent guardian from receiving money paid for the child's support to the child's parent under the terms of any statutory benefit or insurance system or any private contract, settlement, agreement, court order, devise, trust, conservatorship, or custodianship, and money or property of the child.

(b) After due notice to the parent or other persons legally obligated to care for and support the child and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay, in such manner as the court may direct, a reasonable sum that will cover in whole or in part the support and medical treatment of the child after the guardianship order is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against that person for contempt, or may file the order, which shall have the effect of a civil judgment.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2397. INTERLOCUTORY ORDER OF GUARDIANSHIP.

(a) If it is in the child's best interests, the court may enter an interlocutory guardianship order, which shall by its terms automatically become a guardianship order on a date therein named, not less than 6 months nor more than one year from the date of entry of the interlocutory order, unless in the interim the order shall have been set aside for cause shown.

(b) The agency having responsibility for the child shall be permitted to visit the child during the period of the interlocutory order and may be ordered to provide services as specified in the interlocutory order.

(c) The court may revoke its interlocutory guardianship order, either on its own motion or on the motion of one of the parties, for good cause shown, at any time before it becomes a guardianship order if it is in the child's best interests. Before the revocation, personal notice shall be given to the parties and an adjudicatory hearing shall be conducted pursuant to section 16-2388.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2398. SUCCESSOR GUARDIAN.

(a) Upon filing a motion for permanent guardianship pursuant to section 16-2384, the movant may designate and the court shall approve any successor guardian.

(b) A successor guardian may be designated or removed after the creation of the permanent guardianship by the filing of a motion to modify pursuant to section 16-2395.

(c) The successor guardian shall immediately obtain physical custody of the child and assume the permanent guardian's rights and responsibilities concerning the child upon the permanent guardian's

death, or physical or mental infirmity.

(d) The successor guardian shall move the court for a modification of the original guardianship order within 30 days of obtaining physical custody of the child. Unless otherwise ordered by the court, the successor guardian shall assume the permanent guardian's rights and responsibilities concerning the child until the court conducts a hearing on the motion to modify.

(e) A motion filed pursuant to this section shall:

- (1) Include information required by section 16-2384(c);
- (2) Append the original order which designated the successor guardian; and
- (3) Append a copy of either:
 - (A) Proof of the permanent guardian's death, such as a copy of a death certificate or funeral home receipt; or
 - (B) Proof of the permanent guardian's physical or mental infirmity.

(f) Before issuing a final order transferring the permanent guardian's rights and responsibilities to the successor guardian, the court shall, in addition to the requirements specified in section 16-2395(e), find that:

- (1) The successor guardian was duly designated by the permanent guardian;
- (2) The permanent guardian is deceased or is physically or mentally infirm;
- (3) The transfer of permanent guardianship is in the child's best interests;
- (4) Adoption, termination of parental rights, or return to parent is not appropriate for the child; and
- (5) The successor guardian is suitable and able to provide a safe and permanent home for the child.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

§ 16-2399. PERMANENT GUARDIANSHIP SUBSIDY.

(a) To the extent that appropriated funds are available, the Mayor may make subsidy payments to a permanent guardian, irrespective of the permanent guardian's state of residence, as needed on behalf of a child with special needs where the permanent guardian has the capability of providing the permanent family relationships needed by such child in all areas except financial, as determined by the Mayor. For the purposes of this section a "child with special needs" includes any child who is difficult to place in adoption because of age, race, ethnic background, physical or mental condition, or membership in a sibling group which should be placed together, or a child who, in all likelihood, would go without another permanent placement arrangement except for the acceptance of the child as a member of the permanent guardian's family.

(b) For a permanent guardian to be eligible for subsidy payments under this section:

- (1) The child must be adjudicated neglected pursuant to section 16-2317;
- (2) The child must be committed to the legal custody of the Child and Family Services Agency;
- (3) Repealed; and
- (4) A subsidy payment agreement must be entered into by the Child and Family Services Agency and the permanent guardian.

(c) Subsidy payments allowed under this section may be paid, subject to the availability of appropriated funds necessary to carry out the provisions of this section, on a long-term basis to help a permanent

guardian whose income is limited and likely to remain so, or on a time-limited basis to help a permanent guardian meet the cost of integrating a child into the family over a specified period of time.

(d)(1) Except as provided in paragraph (2) of this subsection, eligibility for subsidy payments under this section may continue during the period of the guardianship order until the child reaches 18 years of age.

(2) For guardianships that are finalized on or after May 7, 2010, eligibility for subsidy payments under this section shall continue during the period of the guardianship order until the child reaches 21 years of age.

(e) No subsidy payment to a permanent guardian shall be made on behalf of any child with respect to whom a guardianship order has been entered by the Superior Court of the District of Columbia, pursuant to this subchapter, before October 1, 2000.

(f) Once during each calendar year and at other times during the year when changed conditions and costs are deemed by the Mayor to warrant review, the Mayor shall review the need for continuing each permanent guardianship subsidy. A permanent guardian who is subject to a subsidy agreement under this section may request, in writing, at any time, for reasons set forth in the request, a review of the amount of the payment or the level of continuing payments. Such review shall begin not later than 30 days from the receipt of the request by the Mayor. At the time of a review, appropriate adjustments in payment shall be made based upon changes in the needs of the child. Any adjustment may be made retroactive to the date a request for review was received by the Mayor. If a request for review is not acted on within 30 days after it has been received by the Mayor, or if the Mayor modifies or terminates an agreement without the concurrence of all parties, any party to the agreement shall be entitled to a hearing under the applicable provisions of subchapter I of Chapter 5 of Title 2.

(g) The Mayor shall disseminate information to prospective permanent guardians as to eligibility for subsidy under this section.

(h) The Mayor shall keep such records as are necessary to evaluate the effectiveness of permanent guardianship subsidies as a means of encouraging and promoting the placement of children with special needs with permanent guardians. The Mayor shall make an annual progress report which shall be open to public inspection. The report shall include the number of children placed with permanent guardians under subsidy payment agreements during the year preceding the annual report and the major characteristics of the children placed.

(i) Permanent guardianship subsidies shall be subject to the availability of appropriations. Nothing in this section shall be construed to create an entitlement to a permanent guardianship subsidy for any person.

(j) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this section.

(Apr. 4, 2001, D.C. Law 13-273, § 3(b), 48 DCR 1637; Oct. 26, 2001, D.C. Law 14-42, § 5, 48 DCR 7612; Sept. 24, 2010, D.C. Law 18-230, § 502(b), 57 DCR 6951; Sept. 26, 2012, D.C. Law 19-171, § 75(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 14-42, in subsec. (b)(1), deleted "abused or" following "adjudicated".

D.C. Law 18-230, in subsec. (b)(2), inserted "and" at the end; repealed subsec. (b)(3); in subsec. (d), designated the existing text as par. (1); in subsec. (d)(1), substituted "Except as provided in paragraph (2) of this subsection, eligibility for subsidy" for "Eligibility for subsidy"; and added subsec. (d)(2).

D.C. Law 19-171, in subsec. (b)(2), deleted "and" at the end.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Temporary Addition of Sections

For temporary (225 day) addition of subchapter V, "Permanent Guardianship", consisting of §§ 16-2381 to 16-2399, see § 3(b) of the Adoption and Guardianship Subsidy Temporary Amendment Act of 2010 (D.C. Law 18-208, July 27, 2010, law notification 57 DCR 7547).

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2(b) of the Foster Children's Guardianship Legislative Review Emergency Act of 2000 (D.C. Act 13-490, December 18, 2000, 48 DCR 63).

For temporary (90 day) addition of section, see § 3(c) of Foster Children's Guardianship Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-4, February 13, 2001, 48 DCR 2254).

For temporary (90 day) amendment of section, see § 5 of Technical Amendments Emergency Act of 2001 (D.C. Act 14-108, August 3, 2001, 48 DCR 7622).

For temporary (90 day) amendment of section, see § 3(b) of Adoption and Guardianship Subsidy Emergency Amendment Act of 2010 (D.C. Act 18-393, May 7, 2010, 57 DCR 4346).

Legislative History of Laws

For D.C. Law 13-273, see notes following § 16-2381.

Law 14-42, the "Technical Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-216, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 5, 2001, and June 26, 2001, respectively. Signed by the Mayor on July 24, 2001, it was assigned Act No. 14-107 and transmitted to both Houses of Congress for its review. D.C. Law 14-42 became effective on October 26, 2001.

For Law 18-230, see notes following § 16-309.

For history of Law 19-171, see notes under § 16-2331.

Delegation of Authority

Delegation of Authority Pursuant to the Foster Children's Guardianship Congressional Review Emergency Act of 2001, Effective 2-13-01, DC Act 14-4, and any Substantially Identical Successor Legislation, Including the Foster Children's Guardianship Act of 2000, DC Act 13-566 (Pending Congressional Review), see Mayor's Order 2001-49, April 11, 2001 (48 DCR 4726).