

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 16.
PARTICULAR ACTIONS, PROCEEDINGS
AND MATTERS.

CHAPTER 7.
CRIMINAL PROCEEDINGS IN THE SUPERIOR
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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 7. CRIMINAL PROCEEDINGS IN THE
SUPERIOR COURT.

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CHAPTER 7. CRIMINAL PROCEEDINGS IN THE SUPERIOR COURT.

§ 16-701. RULES AND REGULATIONS.

The Superior Court may make such rules and regulations for conducting business in the Criminal Division of the court, consistent with statutes applicable to such business and in the manner provided in section 11-946, as it may deem necessary and proper.

(Dec. 23, 1963, 77 Stat. 557, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 555, Pub. L. 91-358, title I, § 145(d)(1).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-701.

1973 Ed., § 16-701.

§ 16-702. PROSECUTION BY INDICTMENT OR INFORMATION.

An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court.

(Dec. 23, 1963, 77 Stat. 558, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 555, Pub. L. 91-358, title I, § 145(d)(2)(A).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-702.

1973 Ed., § 16-702.

§ 16-703. PROCESS OF CRIMINAL DIVISION; FEES.

(a) The Criminal Division of the Superior Court may issue process for the arrest of a person against whom an indictment is returned, an information is filed, or a complaint under oath is made.

(b) Process shall --

(1) be under the seal of the court;

(2) bear teste in the name of a judge of the court, and

(3) be signed by a clerk or employee of the court authorized to administer oaths.

(c) In cases arising out of violations of any of the ordinances of the District of Columbia, process shall be directed to the Chief of Police, who shall execute the process and make return thereof in like manner as in other cases.

(d) In all other criminal cases, the process issued by the Superior Court may be directed to the United States marshal or to the Chief of Police.

(e) For services pursuant to subsection (d) of this section the marshal shall receive the fees prescribed by section 15-709(b).

(Dec. 23, 1963, 77 Stat. 558, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 556, Pub. L. 91-358, title I, § 145(d)(3); Mar. 24, 1998, D.C. Law 12- 81, § 10(e), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-703.

1973 Ed., § 16-703.

Legislative History of Laws

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.

§ 16-704. BAIL; COLLATERAL SECURITY.

(a) A person charged with an offense triable in the criminal division of the Superior Court of the District of Columbia may give security for his appearance for trial or for further hearing, either by giving bond to the satisfaction of the court or by depositing money as collateral security with the appropriate officer at the court or the station keeper of the police precinct within which he is apprehended. When a sum of money is deposited as collateral security as provided by this section it shall remain, in contemplation of law, the property of the person depositing it until duly forfeited by the court. When forfeited, it shall be, in contemplation of law, the property of the United States of America or of the District of Columbia, according as the charge against the person depositing it is instituted on behalf of the United States or of the District. Every person receiving any sum of money deposited as provided by this section shall be deemed in law the agent of the person depositing it or of the United States or the District, as the case may be, for all purposes of properly preserving and accounting for money.

(b) This section does not affect the ultimate rights under existing law of the Washington Humane Society of the District of Columbia, in or to any forfeitures collected in the criminal division of the Superior Court of the District of Columbia.

(Dec. 23, 1963, 77 Stat. 558, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 557, Pub. L. 91-358, title I, § 145(d)(6).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-704.

1973 Ed., § 16-704.

§ 16-705. JURY TRIAL; TRIAL BY COURT.

(a) In a criminal case tried in the Superior Court in which, according to the Constitution of the United States, the defendant is entitled to a jury trial, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.

(b) In any case where the defendant is not under the Constitution of the United States entitled to a trial by jury, the trial shall be by a single judge without a jury, except that if --

(1)(A) The defendant is charged with an offense which is punishable by a fine or penalty of more than \$1,000 or by imprisonment for more than 180 days (or for more than six months in the case of the offense of contempt of court); or

(B) The defendant is charged with 2 or more offenses which are punishable by a cumulative fine or penalty of more than \$4,000 or a cumulative term of imprisonment of more than 2 years; and

(2) The defendant demands a trial by jury, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial by the court, the judge's verdict shall have the same force and effect as that of a jury.

(b-1) If a defendant in a criminal case is charged with 2 or more offenses and the offenses include at least one jury demandable offense and one non-jury demandable offense, the trial for all offenses charged against that defendant shall be by jury unless the defendant in open court expressly waives trial by jury and

requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.

(c) The jury shall consist of twelve persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than twelve. Even absent such agreement, if, due to extraordinary circumstances, the court finds it necessary to excuse a juror for just cause after the jury has retired to consider its verdict, in the discretion of the court, a valid verdict may be returned by the remaining eleven jurors.

(Dec. 23, 1963, 77 Stat. 558, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 556, Pub. L. 91-358, title I, § 145(d)(4); May 15, 1993, D.C. Law 9-272, § 202, 40 DCR 796; Mar. 21, 1995, D.C. Law 10-232, § 2, 42 DCR 18; May 16, 1995, D.C. Law 10-255, § 14(a), 41 DCR 5193; May 21, 2002, D.C. Law 14-135, § 2, 49 DCR 3439.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-705.

1973 Ed., § 16-705.

Effect of Amendments

D.C. Law 14-135, in subsec. (b)(1), designated subpar. (A) and in that subparagraph, substituted "The defendant is charged with an offense" for "the case involves an offense", and substituted "court); or" for "court), and", and added subpar. (B); rewrote subsec. (b)(2); and added subsec. (b-1). Prior to repeal, subsec. (b)(2) had read as follows:

"(2) the defendant demands a trial by jury and does not subsequently waive a trial by jury in accordance with subsection (a), the trial shall be by jury."

Legislative History of Laws

Law 9-272, the "Criminal and Juvenile Justice Reform Amendment 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.

Law 10-232, the "Jury Trial Act of 1994," was introduced in Council and assigned Bill No. 10-603, 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. 10-374 and transmitted to both Houses of Congress for its review. D.C. Law 10-232 became effective on March 21, 1995.

Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

Law 14-135, the "Misdemeanor Jury Trial Act of 2002", was introduced in Council and assigned Bill No. 14-2, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on February 5, 2002, and March 5, 2002, respectively. Signed by the Mayor on March 25, 2002, it was assigned Act No. 14-311 and transmitted to both Houses of Congress for its review. D.C. Law 14-135 became effective on May 21, 2002.

§ 16-706. ENFORCEMENT OF JUDGMENTS; COMMITMENT UPON NON-PAYMENT OF FINE.

The Superior Court may enforce any of its judgments rendered in criminal cases by fine or imprisonment, or both. Except as otherwise provided by law, and subject to the relief provided in section 3569 of title 18, United States Code, in any case where the court imposes a fine, the court may, in the event of default in the payment of the fine imposed, commit the defendant for a term not to exceed one year.

(Dec. 23, 1963, 77 Stat. 559, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 556, Pub. L. 91-358, title I, § 145(d)(5).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-706.

1973 Ed., § 16-706.

References in Text

Section 3569 of Title 18 of the United States Code, referred to in the second sentence, provided for the discharge of indigent prisoners, and was repealed by § 212 of Pub. L. 98-472.

§ 16-707. DISPOSITION OF FINES.

(a) All fines payable and paid under judgment of the criminal division of the Superior Court of the District of Columbia shall, upon their payment, immediately become, in contemplation of law, the property of the United States or the District of Columbia, according to the charge upon which the fine may be adjudged. Every person receiving such a fine shall be deemed in law an agent of the United States or the District, as the case may be.

(b) This section does not affect the ultimate rights under existing law of the Washington Humane Society of the District of Columbia, in or to any fines paid in the criminal division of the Superior Court of the District of Columbia.

(Dec. 23, 1963, 77 Stat. 559, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 557, Pub. L. 91-358, title I, § 145(d)(6).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-707.

1973 Ed., § 16-707.

§ 16-708. PENALTIES FOR WRONGFUL CONVERSION OF FORFEITURES AND FINES.

Whoever, being an agent as contemplated and defined by section 16-704(a), or by section 16-707(a), wrongfully converts to his own use any money received by him as provided therein, is guilty of theft, and shall be punished in the manner prescribed by law for such offense.

(Dec. 23, 1963, 77 Stat. 559, Pub. L. 88-241, § 1; Dec. 1, 1982, D.C. Law 4-164, § 601(a), 29 DCR 3976.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-708.

1973 Ed., § 16-708.

Legislative History of Laws

Law 4-164, the "District of Columbia Theft and White Collar Crimes Act of 1982," was introduced in Council and assigned Bill No. 4-133, which was referred to the Committee on the Judiciary. The Bill was adopted on first, amended first and second readings on June 22, 1982, July 6, 1982, and July 20, 1982, respectively. Signed by the Mayor on August 4, 1982, it was assigned Act No. 4-238 and transmitted to both Houses of Congress for its review.

§ 16-709. EXECUTIONS ON FORFEITED RECOGNIZANCES AND JUDGMENTS.

The Superior Court of the District of Columbia may issue execution on all recognizances forfeited in its criminal division, upon motion of the prosecuting officer; and all writs of fieri facias or other writs of execution on judgments issued by the criminal division shall be directed to and executed by the United States marshal.

(Dec. 23, 1963, 77 Stat. 559, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 557, Pub. L. 91-358, title I, § 145(d)(6).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-709.

1973 Ed., § 16-709.

§ 16-710. SUSPENSION OF IMPOSITION OR EXECUTION OF SENTENCE.

(a) Except as provided in subsection (b), in criminal cases in the Superior Court of the District of Columbia, the court may, upon conviction, suspend the imposition of sentence or impose sentence and suspend the execution thereof, or impose sentence and suspend the execution of a portion thereof, for such time and upon such terms as it deems best, if it appears to the satisfaction of the court that the ends of justice and the best interest of the public and of the defendant would be served thereby. In each case of the imposition of sentence and the suspension of the execution thereof, or the imposition of sentence and the suspension of the execution of a portion thereof, the court may place the defendant on probation under the control and supervision of a probation officer. The probationer shall be provided by the clerk of the court with a written statement of the terms and conditions of his probation at the time when he is placed thereon. He shall observe the rules prescribed for his conduct by the court and report to the probation officer as directed. A person may not be put on probation without his consent.

(b) The period of probation referred to in subsection (a), together with any extension thereof, shall not exceed 5 years.

(b-1) The court may order as a condition of probation for any defendant convicted of a felony that the defendant remain in custody or in a community correctional center during nights, weekends, or other intervals totaling not more than one year during the term of probation.

(c) Nothing in this section shall be deemed to supersede the provisions of section 22-1804a.

(Dec. 23, 1963, 77 Stat. 559, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 557, Pub. L. 91-358, title I, § 145(d)(6); Mar. 10, 1983, D.C. Law 4-202, § 3, 30 DCR 173; Aug. 2, 1983, D.C. Law 5-24, § 2, 30 DCR 3341; June 8, 2001, D.C. Law 13-302, § 3, 47 DCR 7249.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-710.

1973 Ed., § 16-710.

Effect of Amendments

D.C. Law 13-302 added subsec. (b-1).

Emergency Act Amendments

For temporary (90 day) amendment of section, see §§ 3 and 11 of the Sentencing Reform Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-462, November 7, 2000, 47 DCR 9443).

For temporary (90 day) amendment of section, see § 3 of Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239).

For temporary (90 day) amendment of section, see § 3 of Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

Legislative History of Laws

For legislative history of D.C. Law 4-202, see Historical and Statutory Notes following § 16-711.

Law 5-24, the "Technical and Clarifying amendments Act of 1983," was introduced in Council and assigned Bill No. 5-169, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 1983, and May 24, 1983, respectively. Signed by the Mayor on June 9, 1983, it was assigned Act No. 5-41 and transmitted to both Houses of Congress for its review.

Law 13-302, the "Sentencing Reform Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-696, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-406 and transmitted to both Houses of Congress for its review. D.C. Law 13-302 became effective on June 8, 2001.

§ 16-711. RESTITUTION OR REPARATION.

(a) In criminal cases in the Superior Court, the court may, in addition to any other sentence imposed as a condition of probation or as a sentence itself, require a person convicted of any offense to make reasonable restitution or reparation.

(b) When restitution or reparation is ordered, the court shall take into consideration the number of victims, the actual damage of each victim, the resources of the defendant, the defendant's ability to earn, any obligation of the defendant to support dependents, and other matters as pertain to the defendant's ability to make restitution or reparation.

(c) The court shall fix the manner of performing restitution or reparation.

(d) At any time during the probation period or period of restitution or reparation, the defendant may request and the court may grant a hearing on any matter related to the plan of restitution or reparation.

(Mar. 10, 1983, D.C. Law 4-202, § 2, 30 DCR 173.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-711.

§ 16-711.01. RESTITUTION OR REPARATION--ENFORCEMENT.

(a) An order of restitution or reparation requiring a person convicted of the criminal conduct to pay restitution or reparation constitutes a judgment and lien against all property of a liable defendant for the amount the defendant is obligated to pay under the order and may be recorded in any office for the filing of liens against real or personal property.

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

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

(d) The name and address of the victim shall not be disclosed to the defendant or any representative of the defendant.

(June 3, 2011, D.C. Law 18-377, § 4(2), 58 DCR 1174.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition of § 16-711.01, see § 504(2) 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) addition of § 16-711.01, see § 504(2) 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

Law 18-377, the "Criminal Code Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-963, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 2, 2011, it was assigned Act No. 18-722 and transmitted to both Houses of Congress for its review. D.C. Law 18-377 became effective on June 3, 2011.

§ 16-712. COMMUNITY SERVICE.

(a) In criminal cases in the Superior Court of the District of Columbia, the court may, in addition to any other sentence imposed, require a person convicted of any offense as a condition of probation or as a sentence itself, to undertake reasonable services to the community for a period not to exceed 5 years in duration.

(b) When community service is ordered, the court shall take into consideration the physical and mental health of the defendant, his or her age, education, employment and vocational training, family circumstances, financial condition, and any other factors as shall be appropriate.

(c) The court shall fix the manner of performing community service.

(d) At any time during the probation period or period of community service, the defendant may request and the court may grant a hearing on any matter related to the plan of community service.

(Mar. 10, 1983, D.C. Law 4-202, § 2, 30 DCR 173.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-712.

Legislative History of Laws

For legislative history of D.C. Law 4-202, see Historical and Statutory Notes following § 16-711.

§ 16-713. ALIEN SENTENCING.

(a) Prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime, the court shall administer the following advisement on the record to the defendant:

"If you are not a citizen of the United States, you are advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States."

(b) Upon request, the court shall allow the defendant a reasonable amount of additional time to consider the appropriateness of the plea in light of the advisement. If the court fails to advise the defendant as required by subsection (a) and the defendant shows that conviction of the offense to which the defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by subsection (a), the defendant shall be presumed not to have received the required advisement.

(Mar. 10, 1983, D.C. Law 4-202, § 2, 30 DCR 173.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 16-713.

Legislative History of Laws

For legislative history of D.C. Law 4-202, see Historical and Statutory Notes following § 16-711.