DISTRICT OF COLUMBIA

OFFICIAL CODE

TITLE 23.

CRIMINAL PROCEDURE.

CHAPTER 1.

GENERAL PROVISIONS.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 1. GENERAL PROVISIONS.

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§ 23-101. CONDUCT OF PROSECUTIONS.

(a) Prosecutions for violations of all police or municipal ordinances or regulations and for violations of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only, or imprisonment not exceeding one year, shall be conducted in the name of the District of Columbia by the Corporation Counsel for the District of Columbia or his assistants, except as otherwise provided in such ordinance, regulation, or statute, or in this section.

(b) Prosecutions for violations of section 6 of the Act of July 29, 1892 (D.C. Official Code, sec. 22-1307), relating to disorderly conduct, and for violations of section 9 of that Act (D.C. Official Code, sec. 22-1312), relating to lewd, indecent, or obscene acts, shall be conducted in the name of the District of Columbia by the Corporation Counsel or his assistants.

(c) All other criminal prosecutions shall be conducted in the name of the United States by the United States attorney for the District of Columbia or his assistants, except as otherwise provided by law.

(d) An indictment or information brought in the name of the United States may include, in addition to offenses prosecutable by the United States, offenses prosecutable by the District of Columbia, and such prosecution may be conducted either solely by the Corporation Counsel or his assistants or solely by the United States attorney or his assistants if the other prosecuting authority consents.

(e) Separate indictments or informations, or both, charging offenses prosecutable by the District of Columbia and by the United States may be joined for trial if the offenses charged therein could have been joined in the same indictment. Such prosecution may be conducted either solely by the Corporation Counsel or his assistants or solely by the United States attorney or his assistants if the other prosecuting authority consents.

(f) If in any case any question shall arise as to whether, under this section, the prosecution should be conducted by the Corporation Counsel or by the United States attorney, the presiding judge shall forthwith, either on his own motion or upon suggestion of the Corporation Counsel or the United States attorney, certify the case to the District of Columbia Court of Appeals, which court shall hear and determine the question in a summary way. In every such case the defendant or defendants shall have the right to be heard in the District of Columbia Court of Appeals. The decision of such court shall be final.

(July 29, 1970, 84 Stat. 604, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-101.

1973 Ed., § 23-101.

Miscellaneous Notes

Section 34 of D.C. Law 15-354 provides that Title 23 is designated Title 23 of the District of Columbia Official Code.

§ 23-102. ABANDONMENT OF PROSECUTION; ENLARGEMENT OF TIME FOR TAKING ACTION.

If any person charged with a criminal offense shall have been committed or held to bail to await the action of the grand jury and within nine months thereafter the grand jury shall not have taken action on the case, either by ignoring the charge or by returning an indictment, the prosecution of such charge shall be deemed to have been abandoned and the accused shall be set free or his bail discharged, as the case may be: but, the court having jurisdiction to try the offense for which the person has been committed, when practicable and upon good cause shown in writing and upon due notice to the accused, may from time to time enlarge the time for the taking action in such case by the grand jury.

(July 29, 1970, 84 Stat. 605, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-102.

1973 Ed., § 23-102.

§ 23-103. STATEMENTS PRIOR TO SENTENCE.

(a) Except as provided in subsection (b) of this section, before imposing sentence the court may disclose to the defendant's counsel and to the prosecuting attorney, but not to one and not the other, all or part of any pre-sentencing report submitted to the court in the case. The court also prior to imposing sentence shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment. At any time when the defendant or his counsel addresses the court on the sentence to be imposed, the prosecuting attorney shall, if he wishes, have an equivalent opportunity to address the court and to make a recommendation to the court on the sentence to be imposed and to present information in support of his recommendation. Such information as the defendant or his counsel or the prosecuting attorney may present shall at all times be subject to the applicable rules of mutual discovery.

(b) When a victim elects to file a victim impact statement pursuant to § 23- 103a, the court shall disclose the victim impact statement portion of the presentence report at a reasonable time prior to imposing sentence to the defendant's counsel and to the prosecuting attorney.

(July 29, 1970, 84 Stat. 605, Pub. L. 91-358, title II, § 210(a); May 10, 1989, D.C. Law 7-229, § 2(a), 35 DCR 6155.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-103.

1973 Ed., § 23-103.

Legislative History of Laws

For legislative history of D.C. Law 7-229, see Historical and Statutory Notes following § 23-103a.

§ 23-103A. RIGHTS OF VICTIMS OF CRIME.[REPEALED]

(May 10, 1989, D.C. Law 7-229, § 2(b), 35 DCR 6155; Aug. 20, 1994, D.C. Law 10-151, §§ 101(f), 501, 41 DCR 2608; June 8, 2001, D.C. Law 13-301, § 303, 47 DCR 7039.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-103a.

Emergency Act Amendments

For temporary amendment of section, see §§ 101(f) and 501 of the Omnibus Criminal Justice Reform Emergency Amendment Act of 1994 (D.C. Act 10-255, June 22, 1994, 41 DCR 4286).

Legislative History of Laws

Law 7-229, the "Victim's Rights Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 28, 1988, and July 12, 1988, respectively. Signed by the Mayor on August 1, 1988, it was assigned Act No. 7-236 and transmitted to both Houses of Congress for its review.

Law 10-151, the "Omnibus Criminal Justice Reform Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-98, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on March 29, 1994, and April 12, 1994, respectively. Signed by the Mayor on May 4, 1994, it was assigned Act No. 10-238 and transmitted to both Houses of Congress for its review. D.C. Law 10-151 became effective on August 20, 1994.

Law 13-301, the "Senior Protection Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-297, 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. 13-396 and transmitted to both Houses of Congress for its review. D.C. Law 13-301

became effective on June 8, 2001.

§ 23-104. APPEALS BY UNITED STATES AND DISTRICT OF COLUMBIA.

(a)(1) The United States or the District of Columbia may appeal an order, entered before the trial of a person charged with a criminal offense, which directs the return of seized property, suppresses evidence, or otherwise denies the prosecutor the use of evidence at trial, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge who granted such motion that the appeal is not taken for purpose of delay and the evidence is a substantial proof of the charge pending against the defendant.

(2) A motion for return of seized property or to suppress evidence shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion.

(b) The United States or the District of Columbia may appeal a ruling made during the trial of a person charged with a criminal offense which suppresses or otherwise denies the prosecutor the use of evidence on the ground that it was invalidly obtained, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge who made the ruling that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of the charge being tried against the defendant. The trial court shall adjourn the trial until the appeal shall be resolved; except that, if the decision on appeal has not been rendered within the ninety-six-hour period following the adjournment of the trial, the trial shall resume on the next day of regular court business following the expiration of the ninety-six-hour period, and the appeal shall be deemed void and without effect.

(c) The United States or the District of Columbia may appeal an order dismissing an indictment or information or otherwise terminating a prosecution in favor of a defendant or defendants as to one or more counts thereof, except where there is an acquittal on the merits.

(d) The United States or the District of Columbia may appeal any other ruling made during the trial of a person charged with an offense which the United States attorney or the Corporation Counsel certifies as involving a substantial and recurring question of law which requires appellate resolution. Such an appeal may be taken only during the trial and only with leave of the court. The trial court shall adjourn the trial until the appeal shall be resolved; except that, if the decision on appeal has not been rendered within the ninety-six-hour period following the adjournment of the trial, the trial shall resume on the next day of regular court business following the expiration of the ninety-six-hour period, and the appeal shall be deemed void and without effect.

(d-1) In a criminal or delinquency case, the United States or the District of Columbia may appeal an order of a trial court granting a new trial after verdict or judgment, as to any one or more counts, or any part thereof, except that no appeal shall lie where the double jeopardy clause of the United States Constitution prohibits further prosecution.

(d-2) In a criminal or delinquency case, the United States or the District of Columbia may appeal a decision or order entered by the trial court granting the release of a person charged with, or convicted or adjudicated delinquent of an offense, the denial of a motion for revocation of release, or modification of the conditions of release.

(e) Any appeal taken pursuant to this section either before or during trial shall be expedited. If an appeal is taken pursuant to subsection (b), (d), (d-1), or (d-2) during trial, the appellate court shall hear argument on such appeal within forty-eight hours of the adjournment of the trial pursuant to that subsection shall dispense with any requirement of written briefs other than the supporting materials previously submitted to the trial court, shall render its decision within forty-eight hours of argument on appeal, and may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

(f) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with Chapter 13 of this title and a juvenile respondent shall be detained or released in accordance with Chapter 23 of Title 16.

(July 29, 1970, 84 Stat. 606, Pub. L. 91-358, title II, § 210(a); Apr. 24, 2007, D.C. Law 16-306, § 224(a), 53 DCR 8610.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-104.

1973 Ed., § 23-104.

Effect of Amendments

D.C. Law 16-306 added subsecs. (d-1) and (d-2); in subsec. (e), substituted "subsection (b), (d), (d-1), or (d-

2)" for "subsection (b) or (d)"; and rewrote subsec. (f), which had read as follows:

"(f) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with chapter 13 of this title."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 224(a) 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 § 224(a) 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 § 224(a) 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 § 224(a) 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

Law 16-306, the "Omnibus Public Safety Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-247, which was referred to Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 2006, and October 3, 2006, respectively. Signed by the Mayor on October 17, 2006, it was assigned Act No. 16-482 and transmitted to both Houses of Congress for its review. D.C. Law 16-306 became effective on April 24, 2007.

§ 23-105. CHALLENGES TO JURORS.

(a) In a trial for an offense punishable by death, each side is entitled to twenty peremptory challenges. In a trial for an offense punishable by imprisonment for more than one year, each side is entitled to ten peremptory challenges. In all other criminal cases, each side is entitled to three peremptory challenges. If there is more than one defendant, or if a case is prosecuted both by the United States and by the District of Columbia, the court may allow additional peremptory challenges and permit them to be exercised separately or jointly, but in no event shall one side be entitled to more peremptory challenges than the other.

(b) The court may direct that jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. In addition to those otherwise allowed, each side is entitled to one peremptory challenge if one or two alternate jurors are to be impaneled, to two peremptory challenges if three or four alternate jurors are to be impaneled, and to three peremptory challenges if five or six alternate jurors are to be impaneled.

(c) Any juror or alternate juror may be challenged for cause.

(d) No verdict shall be set aside for any cause which might be alleged as ground for challenge of a juror before the jury is sworn, except when the objection to the juror is that he had a bias against the defendant such as would have disqualified him, such disqualification was not known to or suspected by the defendant or his counsel before the juror was sworn, and the basis for such disqualification was the subject of examination or request for examination of the prospective jurors by or on request of the defendant.

(July 29, 1970, 84 Stat. 607, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-105.

1973 Ed., § 23-105.

§ 23-106. WITNESSES FOR DEFENSE; FEES.

The court shall order at any time that a subpoena be issued for service upon a named witness on behalf of a defendant if the defendant makes an application for such an order and makes a satisfactory showing that he is financially unable to pay the fees of the witness and that the presence of the witness is necessary to an adequate defense. If the court orders the subpoena to be issued the costs incurred by the process and the fees of the witness so subpoenaed shall be paid in the same manner in which similar costs and fees are paid in case of a witness subpoenaed in behalf of the prosecuting authority.

(July 29, 1970, 84 Stat. 607, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-106.

1973 Ed., § 23-106.

§ 23-107. DISCHARGE OR ACQUITTAL OF JOINT DEFENDANT DURING TRIAL IN ORDER TO BE WITNESS.

(a) When two or more persons are jointly indicted or charged by information, or charged by separate indictments or informations which have been joined for trial, the court may, with the consent of the prosecuting authority, direct that a defendant who has not gone into his defense be discharged so that he may be a witness for the prosecution.

(b) When two or more persons are jointly tried, a person desiring that another defendant testify on his behalf may request a judgment of acquittal on behalf of such defendant, which the court shall consider in the same manner as a motion made by such defendant.

(c) At the request of a defendant who wishes to testify on behalf of another person with whom he is jointly tried, if the evidence against such defendant is sufficient to be submitted to the jury and if such other person consents, the court may submit the case concerning such defendant to the jury separately so that his testimony may not be considered against him by such jury.

(d) A discharge granted pursuant to subsection (a), or an acquittal secured pursuant to subsection (b) or (c), shall be a bar to another prosecution for the same offense of the defendant so discharged or acquitted.

(July 29, 1970, 84 Stat. 607, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-107.

1973 Ed., § 23-107.

§ 23-108. DEPOSITIONS.

(a) If a material witness for either the prosecution or the defendant resides more than twenty-five miles from the place of holding court, is sick or infirm, or is about to leave the District of Columbia, and the prosecution or the defendant applies in writing to the court for a commission to examine such witness, the court may grant the commission, and enter an order stating for what length of time notice shall be given to the other party before such witness shall be examined. At or before the time fixed in the notice, when the examination is upon written interrogatories, the other party may file cross-interrogatories. When the examination is conducted orally, the other party may cross-examine the deponent. If the other party fails to file written interrogatories or fails to attend an oral examination, the clerk shall file the following interrogatories:

"(1) Are all your statements in the foregoing answers made from your own personal knowledge? If not, show what is stated upon information and give its source.

"(2) State everything you know in addition to what is stated in your above answers concerning this case favorable to either the prosecution or the defendant."

(b) The court may order in any case that the examination be conducted orally.

(c) The commission shall issue from the clerk's office, the examination of the witnesses shall be made and certified, and the return thereof made in the same manner as in civil cases, and unimportant irregularities or errors in the proceedings under the commission shall not cause the deposition to be excluded where no substantial prejudice can be wrought to the prosecution or the defendant by such irregularities or errors.

(d) Copies of the depositions or answers to interrogatories shall be made available to all of the parties upon the completion of the examination.

(July 29, 1970, 84 Stat. 608, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-108.

1973 Ed., § 23-108.

§ 23-109. POWERS OF INVESTIGATORS ASSIGNED TO UNITED STATES

ATTORNEY.

Any special investigator appointed by the Attorney General and assigned to the United States Attorney for the District shall have authority to execute all lawful writs, process, and orders issued under authority of the United States, and command all necessary assistance to execute his duties, and shall have the same powers to make arrests as are possessed by members of the Metropolitan Police Department of the District of Columbia.

(July 29, 1970, 84 Stat. 608, Pub. L. 91-358, title II, § 210(a); June 3, 1997, D.C. Law 11-275, § 14(a), 44 DCR 1408.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-109.

1973 Ed., § 23-109.

Legislative History of Laws

Law 11-275, the "Second Criminal Code Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-909, 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. 11-520 and transmitted to both Houses of Congress for its review. D.C. Law 11-275 became effective on June 3, 1997.

§ 23-110. REMEDIES ON MOTION ATTACKING SENTENCE.

(a) A prisoner in custody under sentence of the Superior Court claiming the right to be released upon the ground that (1) the sentence was imposed in violation of the Constitution of the United States or the laws of the District of Columbia, (2) the court was without jurisdiction to impose the sentence, (3) the sentence was in excess of the maximum authorized by law, (4) the sentence is otherwise subject to collateral attack, may move the court to vacate, set aside, or correct the sentence.

(b)(1) A motion for such relief may be made at any time.

(2) A motion for such relief 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.

(c) Unless the motion and files and records of the case conclusively show that the prisoner 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. If the court finds that (1) the judgment was rendered without jurisdiction, (2) the sentence imposed was not authorized by law or is otherwise open to collateral attack, (3) there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner, resentence him, grant a new trial, or correct the sentence, as may appear appropriate.

(d) A court may entertain and determine the motion without requiring the production of the prisoner at the hearing.

(e) The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

(f) An appeal may be taken to the District of Columbia Court of Appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

(g) An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section shall not be entertained by the Superior Court or by any Federal or State court if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

(July 29, 1970, 84 Stat. 608, Pub. L. 91-358, title II, § 210(a); Dec. 10, 2009, D.C. Law 18-88, § 220, 56 DCR 7413.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-110.

1973 Ed., § 23-110.

Effect of Amendments

D.C. Law 18-88, in subsec. (b), designated the existing language as par. (1), and added par. (2).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 220 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 220 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18- 227, October 21, 2009, 56 DCR 8668).

Legislative History of Laws

Law 18-88, the "Omnibus Public Safety and Justice Amendment Act of 2009", as introduced in Council and assigned Bill No. 18-151, which was referred to the Committee on Public Safety and the Judiciary. The bill as adopted on first and second readings on June 30, 2009, and July 31, 2009, respectively. Signed by the Mayor on August 26, 2009, it was assigned Act No. 18-189 and transmitted to both Houses of Congress for its review. D.C. Law 18-88 became effective on December 10, 2009.

§ 23-111. PROCEEDINGS TO ESTABLISH PREVIOUS CONVICTIONS.

(a)(1) No person who stands convicted of an offense under the laws of the District of Columbia shall be sentenced to increased punishment by reason of one or more previous convictions, unless prior to trial or before entry of a plea of guilty, the United States attorney or the Corporation Counsel, as the case may be, files an information with the clerk of the court, and serves a copy of such information on the person or counsel for the person, stating in writing the previous convictions to be relied upon. Upon a showing by the Government that facts regarding previous convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years, unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) If the prosecutor files an information under this section, the court shall, after conviction but before pronouncement of sentence, inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a previous conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(c)(1) If the person denies any allegation of the information of previous conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the Government to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1). The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a previous conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

(d)(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of previous convictions, the court shall proceed to impose sentence upon him as provided by law.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the prosecutor, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by law. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

(July 29, 1970, 84 Stat. 609, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-111.

1973 Ed., § 23-111.

§ 23-112. CONSECUTIVE AND CONCURRENT SENTENCES.

A sentence imposed on a person for conviction of an offense shall, unless the court imposing such sentence expressly provides otherwise, run consecutively to any other sentence imposed on such person for conviction of an offense, whether or not the offense (1) arises out of another transaction, or (2) arises out of the same transaction and requires proof of a fact which the other does not.

(July 29, 1970, 84 Stat. 610, Pub. L. 91-358, title II, § 210(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-112.

1973 Ed., § 23-112.

§ 23-112A. NOTICE AT SENTENCING OF CHILD SUPPORT MODIFICATION.

(a) At all sentencing proceedings in which an individual will be sentenced for a period of imprisonment of more than 30 days, or at any proceeding in which a judge is revoking probation that will result in a sentence of imprisonment of more than 30 days, the sentencing court shall inquire as to whether the individual being sentenced is subject to a child support order. If the individual being sentenced is subject to a child support order, the sentencing court shall explain that:

(1) The individual being sentenced may petition to modify or suspend child support payments during the period of the individual's imprisonment; and

(2) Child support payments will continue to accrue under the order unless the order is modified or suspended.

(b) The court shall provide each individual being sentenced with a copy of a *pro se* petition to modify the child support order pursuant to § 46-204. The petition may be filed in open court during sentencing. The petition shall be deemed filed in the case in which the child support order was entered as of its filing in open court, and the petition shall be included in the records of that case.

(c) The clerk of the Court shall effectuate service of the petition in accordance with § 46-206.

(May 24, 2005, D.C. Law 15-357, § 102(b), 52 DCR .)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 15-357, the "Omnibus Public Safety Ex-offender Self-sufficiency Reform Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-785, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on November 9, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-744 and transmitted to both Houses of Congress for its review. D.C. Law 15-357 became effective on May 24, 2005.

§ 23-113. LIMITATIONS ON ACTIONS FOR CRIMINAL VIOLATIONS.

(a) *Time Limitations.* -- (1) A prosecution for the following crimes may be commenced at any time:

(A) murder in the first or second degree (D.C. Official Code §§ 22-2101 and 2102);

(B) murder in the second degree (D.C. Official Code § 22-2103);

(C) murder of a law enforcement officer or public safety employee (D.C. Official Code § 22-2106);

(D) first degree murder that constitutes an act of terrorism (D.C. Official Code § 22-3153(a));

(E) second degree murder that constitutes an act of terrorism (D.C. Official Code § 22-3153(c)); and

(F) murder of a law enforcement officer or public safety employee that constitutes an act of

terrorism (D.C. Official Code § 22-3153(b)).

(2) A prosecution for the following crimes and any offense that is properly joinable with any of the following crimes is barred if not commenced within fifteen (15) years after it is committed:

(A) first degree sexual abuse (D.C. Official Code § 22-3002);

(B) second degree sexual abuse (D.C. Official Code § 22-3003);

(C) first degree child sexual abuse (D.C. Official Code § 22-3008); and

(D) second degree child sexual abuse (D.C. Official Code § 22-3009).

(3) A prosecution for the following crimes and any offense that is properly joinable with any of the following crimes is barred if not commenced within ten (10) years after it is committed:

(A) third degree sexual abuse (D.C. Official Code § 22-3004);

(B) fourth degree sexual abuse (D.C. Official Code § 22-3005);

(C) enticing a child for the purpose of committing felony sexual abuse (D.C. Official Code § 22-3010);

(D) first degree sexual abuse of a ward (D.C. Official Code § 22-3013);

(E) second degree sexual abuse of a ward (D.C. Official Code § 22-3014);

(F) first degree sexual abuse of a patient or client (D.C. Official Code § 22-3015);

(G) second degree sexual abuse of a patient or client (D.C. Official Code § 22-3016);

(H) using a minor in a sexual performance or promoting a sexual performance by a minor (D.C. Official Code § 22-3102);

(I) incest (D.C. Official Code § 22-1901); and

(J) Trafficking in labor or commercial sex and sex trafficking of children as prohibited by [D.C. Official Code §§ 22-1833 and 22-1834], respectively;

(K) Section [D.C. Official Code § 22-2704];

(L) Section [D.C. Official Code 22-2705]; and

(M) Sections [D.C. Official Code 22-2706 and 22-2708].

(4) Except as provided in paragraph (6), a prosecution for a felony other than those crimes enumerated in paragraphs (1) through (3) is barred if not commenced within six (6) years after it is committed.

(5) Except as provided in paragraph (6), a prosecution for any other criminal offense is barred if not commenced within three (3) years after it is committed.

(6) A prosecution for a felony or a misdemeanor may be brought within three (3) years:

(A) after a public officer or employee has left office, for any completed offense based on official conduct; or

(B) after a fraud or breach of fiduciary trust has been, or reasonably should have been, discovered for any completed offense based on that fraud or breach of fiduciary trust; even if barred by the provisions of paragraphs (4) and (5):

Provided, that, in no case shall this provision extend the period of limitations to more than nine (9) years in the case of a felony nor more than six (6) years in the case of a misdemeanor.

(b) *Time when offense committed.* -- An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct, or the defendant's complicity therein, is terminated. Time starts to run on the day after the offense is committed or completed.

(c) *Commencement of prosecution.* -- A prosecution is commenced when:

(1) an indictment is entered;

(2) an information is filed; or

(3) a complaint is filed before a judicial officer empowered to issue an arrest warrant; provided, that such warrant is issued without unreasonable delay. A prosecution for an offense necessarily included in the offense charged shall be considered to have been timely commenced, even though the period of limitation for such included offense has expired, if the period of limitation has not expired for the offense charged and if there was, after the close of the evidence at trial, sufficient evidence as a matter of law to sustain a conviction for the offense charged.

(d) *Suspension of period of limitation.* -- (1) The period of limitation for an offense, and any necessarily included offense, does not run during any time when a prosecution against the defendant for that offense is pending in the courts of the District of Columbia.

(2) The period of limitation shall not begin to run until the victim reaches 21 years of age for the following offenses:

(A) first degree child sexual abuse (D.C. Official Code § 22-3008);

(B) second degree child sexual abuse (D.C. Official Code § 22-3009);

(C) enticing a child for the purpose of committing felony sexual abuse (D.C. Official Code § 22-3010);

(D) using a minor in a sexual performance or promoting a sexual performance by a minor (D.C. Official Code § 22-3102);

(E) incest (D.C. Official Code § 22-1901); and

(F) Sections [D.C. Official Code 22-3009.01 and 22-3009.02];

(G) Section [D.C. Official Code 22-2704];

(H) Section [D.C. Official Code 22-2705];

(I) Section [D.C. Official Code 22-2706], where the victim is a minor; and

(J) Forced labor, trafficking in labor or commercial sex, sex trafficking of children, and benefitting financially from human trafficking as prohibited by the Human Trafficking Act [D.C. Law 18-239], where the victim is a minor.

(3) The period of limitation shall not begin to run for first degree sexual abuse of a ward (D.C. Official Code § 22-3013) or second degree sexual abuse of a ward (D.C. Official Code § 22-3014) until the victim is no longer a ward.

(4) The period of limitation shall not begin to run for first degree sexual abuse of a patient or client (D.C. Official Code § 22-3015) or second degree sexual abuse of a patient or client (D.C. Official Code § 22-3016) until the victim is no longer a patient or client of the actor.

(5) The period of limitation shall not begin to run for forced labor, trafficking in labor or commercial sex, sex trafficking of children, and benefitting financially from human trafficking until the victim is no longer subject to the means used to obtain or maintain his or her labor or services or commercial sex acts.

(e) *Extended period for commencement of newprosecution.* -- If a timely complaint, indictment, or information is dismissed for any error, defect, insufficiency, or irregularity, a new prosecution may be commenced within three (3) months after the dismissal becomes final even though the period of limitation has expired at the time of the dismissal or will expire within three (3) months thereafter.

(f) *Fugitives from justice.* -- No statute of limitations shall extend to any person fleeing from justice.

(Apr. 30, 1982, D.C. Law 4-104, §§ 2, 3, 29 DCR 1401; Oct. 17, 2002, D.C. Law 14-194, § 156(a), 49 DCR 5306; May 10, 2005, D.C. Law 15-356, § 2, 52 DCR 1176; Apr. 24, 2007, D.C. Law 16-306, § 224(b), 53 DCR 8610; Oct. 23, 2010, D.C. Law 18-239, § 206(a), 57 DCR 5405.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-113.

Effect of Amendments

D.C. Law 14-194 rewrote subsec. (a)(1) which had read as follows:

"(1) A prosecution for murder in the first or second degree may be commenced at any time."

D.C. Law 15-356 rewrote subsecs. (a) and (d) which had read as follows:

"(a) *Time limitations.* -- (1) A prosecution for murder in the first or second degree, first degree murder that constitutes an act of terrorism, and second degree murder that constitutes an act of terrorism may be commenced at any time.

"(2) Except as provided in paragraph (4), a prosecution for a felony other than murder in first or second degree is barred if not commenced within six (6) years after it is committed.

"(3) Except as provided in paragraph (4), a prosecution for any other criminal offense is barred if not commenced within three (3) years after it is committed.

"(4) A prosecution for a felony or a misdemeanor may be brought within three (3) years:

"(A) after a public officer or employee has left office, for any completed offense based on official conduct; or

"(B) after a fraud or breach of fiduciary trust has been, or reasonably should have been, discovered for any completed offense based on that fraud or breach of fiduciary trust; even if barred by the provisions of paragraphs (2) and (3):

Provided, that, in no case shall this provision extend the period of limitations to more than nine (9) years in the

case of a felony nor more than six (6) years in the case of a misdemeanor."

"(d) *Suspension of period of limitation.* -- The period of limitation for an offense, and any necessarily included offense, does not run during any time when a prosecution against the defendant for that offense is pending in the courts of the District of Columbia."

D.C. Law 16-306, in subsecs. (a)(2) and (3), inserted "and any offense that is properly joinable with any of the following crimes" following "A prosecution for the following crimes".

D.C. Law 18-239, in subsec. (a)(3), deleted "and" from the end of subpar. (H), substituted "; and" for a period the end of subpar. (I), and added subpars. (J) to (M); and, in subsec. (d)(2), deleted "and" from the end of subpar. (D), substituted "; and" for a period the end of subpar. (E), and added subpars. (F) to (J) and par. (d)(5).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 224(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 § 224(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 § 224(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 § 224(b) 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

Law 4-104, the "District of Columbia Criminal Statute of Limitations Act of 1982," was introduced in Council and assigned Bill No. 4-121, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on February 9, 1982, and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-165 and transmitted to both Houses of Congress for its review.

Law 14-194, the "Omnibus Anti-Terrorism Act of 2002", was introduced in Council and assigned Bill No. 14-373, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on April 9, 2002, and May 7, 2002, respectively. Signed by the Mayor on June 3, 2002, it was assigned Act No. 14-380 and transmitted to both Houses of Congress for its review. D.C. Law 14-194 became effective on October 17, 2002.

Law 15-356, the "Felony Sexual Assault Statute of Limitations Act of 2004", was introduced in Council and assigned Bill No. 15-785, which was referred to the Committee on 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. 15-634 and transmitted to both Houses of Congress for its review. D.C. Law 15-356 became effective on May 10, 2005.

For Law 16-306, see notes following § 23-104.

Law 18-239 , the "Prohibition Against Human Trafficking Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-70, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on March 16, 2010, and June 1, 2010, respectively. Signed by the Mayor on June 21, 2010, it was assigned Act No. 18-444 and transmitted to both Houses of Congress for its review. D.C. Law 18-239 became effective on October 23, 2010.

Effective Dates

Section 4 of D.C. Law 15-356 provides as follows:

"Sec. 4. Applicability.

"This act shall apply to an offense committed before its effective date only if the statute of limitations for the offense has not expired prior to the effective date."

§ 23-114. CORROBORATION OF A CHILD WITNESS' TESTIMONY NOT REQUIRED.

For purposes of prosecutions brought under Title 22 of the D.C. Official Code, independent corroboration of the testimony of a child victim is not required to warrant a conviction.

(May 3, 1985, D.C. Law 5-196, § 2(b), 31 DCR 5977.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 23-114.

Law 5-196, the "Child Abuse Reform Act of 1984," was introduced in Council and assigned Bill No. 5-426, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on September 12, 1984, and October 23, 1984, respectively. Signed by the Mayor on November 8, 1984, it was assigned Act No. 5-204 and transmitted to both Houses of Congress for its review.