

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to congressional review, the Office of Citizen Complaint Review Establishment Act of 1998 to expand the membership of the Police Complaints Board, and to allow the Office of Police Complaints' Executive Director to initiate their own complaint if they discover evidence of abuse or misuse of police powers that was not alleged in the original complaint, including the failure to intervene or report to a supervisor when another officer used excessive force, engaged in other forms of misconduct, or violated a rule or regulation; to amend the First Amendment Assemblies Act of 2004 to limit the use of riot gear at First Amendment assemblies, and to prohibit the use of chemical irritants and less-lethal projectiles to disperse First Amendment assemblies; and to amend Chapter 3 of Title 14 of the District of Columbia Official Code to clarify that certain provisions only apply to a victim who is under the age of 18.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Comprehensive Policing and Justice Reform Technical Congressional Review Emergency Amendment Act of 2023".

Sec. 2. The Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 5-1103) is amended by adding a new paragraph (3B) to read as follows:

“(3B) “MPD” means the Metropolitan Police Department.”.

(b) Section 5(a) (D.C. Official Code § 5-1104(a)) is amended by striking the phrase “There is established a Police Complaints Board (“Board”). The Board shall be composed of 5 members,

36 one of whom shall be a member of the MPD, and 4 of whom shall have no current affiliation with  
37 any law enforcement agency.” and inserting the phrase “There is established a Police Complaints  
38 Board. The Board shall be composed of 9 members, which shall include one member from each  
39 Ward and one at-large member, none of whom, after the expiration of the term of the currently  
40 serving member of the MPD, shall be affiliated with any law enforcement agency.” in its place.

41 (c) Section 8 (D.C. Official Code § 5-1107) is amended as follows:

42 (1) A new subsection (g-1) is added to read as follows:

43 “(g-1)(1) If the Executive Director discovers evidence of abuse or misuse of police powers  
44 that was not alleged by the complainant in the complaint, the Executive Director may:

45 “(A) Initiate the Executive Director’s own complaint against the subject  
46 police officer; and

47 “(B) Take any of the actions described in subsection (g)(2) through (6) of  
48 this section.

49 “(2) The authority granted pursuant to paragraph (1) of this subsection shall include  
50 circumstances in which the subject police officer failed to:

51 “(A) Intervene in or subsequently report any use of force incident in which  
52 the subject police officer observed another law enforcement officer, including an MPD officer,  
53 utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order  
54 901.07, its successor directive, or a similar local or federal directive; or

55 “(B) Immediately report to their supervisor any violations of the rules and  
56 regulations of the MPD committed by any other MPD officer, and each instance of their use of

57 force or a use of force committed by another MPD officer, pursuant to MPD General Order 201.26,  
58 or any successor directive.”.

59 (2) Subsection (h) is amended by striking the phrase “subsection (g)” and inserting  
60 the phrase “subsection (g) or (g-1)” in its place.

61 Sec. 3. The First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C. Law  
62 15-352; D.C. Official Code § 5-331.01 *et seq.*), is amended as follows:

63 (a) Section 102 (D.C. Official Code § 5-331.02) is amended as follows:

64 (1) Paragraphs (1) and (2) are redesignated as paragraphs (2) and (4) respectively.

65 (2) A new paragraph (1) is added to read as follows:

66 “(1) “Chemical irritant” means tear gas or any chemical that can rapidly produce  
67 sensory irritation or disabling physical effects in humans, which disappear within a short time  
68 following termination of exposure, or any substance prohibited by the Convention on the  
69 Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on  
70 their Destruction, effective April 29, 1997.”.

71 (3) A new paragraph (3) is added to read as follows:

72 “(3) “Less-lethal projectiles” means any munition that may cause bodily injury or  
73 death through the transfer of kinetic energy and blunt force trauma. The term “less-lethal  
74 projectiles” includes rubber or foam-covered bullets and stun grenades.”.

75 (b) Section 116 (D.C. Official Code § 5-331.16) is amended to read as follows:

76 “Sec. 116. Use of riot gear and riot tactics at First Amendment assemblies.

77           “(a)(1) No officers in riot gear may be deployed in response to a First Amendment  
78 assembly unless there is an immediate risk to officers of significant bodily injury. Any deployment  
79 of officers in riot gear:

80                       “(A) Shall be consistent with the District’s policy on First Amendment  
81 assemblies; and

82                       “(B) May not be used as a tactic to disperse a First Amendment assembly.

83                       “(2) Following any deployment of officers in riot gear in response to a First  
84 Amendment assembly, the commander at the scene shall make a written report to the Chief of  
85 Police within 48 hours, and that report shall be available to the public.

86           “(b)(1) Chemical irritants shall not be used by MPD to disperse a First Amendment  
87 assembly.

88                       “(2) The Mayor shall request that any federal law enforcement agency operating in  
89 the District refrain from the use of chemical irritants to disperse a First Amendment assembly.

90           “(c)(1) Less-lethal projectiles shall not be used by MPD to disperse a First Amendment  
91 assembly.

92                       “(2) The Mayor shall request that any federal law enforcement agency operating in  
93 the District refrain from the use of less-lethal projectiles to disperse a First Amendment  
94 assembly.”.

95           Sec. 4. Chapter 3 of Title 14 of the District of Columbia Official Code is amended as  
96 follows:

97           (a) Section 14-310(b)(4) is amended as follows:

98 (1) Subparagraph (B) is amended by striking the phrase “whom the victim has” and  
99 inserting the phrase “whom a victim under 18 years of age has” in its place.

100 (2) Subparagraph (C) is amended by striking the phrase “the victim” and inserting  
101 the phrase “a victim who is under 18 years of age” in its place.

102 (b) Section 14-311(b)(4) is amended as follows:

103 (1) Subparagraph (B) is amended by striking the phrase “with whom the victim  
104 has” and inserting the phrase “with whom a victim under 18 years of age has” in its place.

105 (2) Subparagraph (C) is amended by striking the phrase “the victim” and inserting  
106 the phrase “a victim who is under 18 years of age” in its place.

107 (c) Section 14-312(b)(4) is amended as follows:

108 (1) Subparagraph (B) is amended by striking the phrase “with whom the victim  
109 has” and inserting the phrase “with whom a sexual assault victim under 18 years of age has” in its  
110 place.

111 (2) Subparagraph (C) is amended by striking the phrase “the sexual assault victim”  
112 and inserting the phrase “a sexual assault victim who is under 18 years of age” in its place.

113 Sec. 5. Applicability.

114 (a) Section 3 shall expire on October 1, 2023.

115 Sec. 6. Fiscal impact statement.

116 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact  
117 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
118 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

119 Sec. 7. Effective date.

120           This act shall take effect following approval by the Mayor (or in the event of veto by the  
121 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
122 90 days, as provided for emergency acts of the Council of the District of Columbia in section  
123 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
124 D.C. Official Code § 1-204.12(a)).

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