



# Appendix I

## A BILL

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Advisory Commission on Sentencing Establishment Act of 1998 to authorize the Commission to promulgate, implement and revise a system of voluntary guidelines, publish instructions and provide technical assistance to the court and practitioners, review and analyze sentencing data, file reports with the Council, review and research sentencing policies and practices, exempt ex officio members from term limits, and repeal provisions that are outdated.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Sentencing and Criminal Code Revision Commission Amendment Act of 2007”.

Sec. 2. The Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-101 et seq.), is amended as follows:

(a) Section 2(b) (D.C. Official Code § 3-101(b)) is amended to read as follows:

“(b) The Commission shall perform the following duties:

“(1) Promulgate, implement and revise a system of voluntary sentencing guidelines for use in the District of Columbia Superior Court designed to achieve the goals of certainty, consistency and adequacy of punishment, with due regard for the seriousness of the offense, the dangerousness of the offender, the need to protect the safety of the community, the offender’s potential for rehabilitation, and the use of alternatives to prison, where appropriate. The voluntary sentencing guidelines shall not be binding on judges. Notwithstanding the guidelines, the judge in an individual case may impose any sentence that does not exceed the maximum term prescribed by law and is not otherwise prohibited by the Constitution or laws of the United States or the District of Columbia. The sentencing guidelines shall not create any legally enforceable rights in any party nor shall they diminish any rights that currently exist.

“(2) Publish a manual containing the instructions for applying the voluntary guidelines, update the manual periodically, and provide ongoing technical assistance to the court and practitioners on sentencing and sentencing guideline issues;



“(3) Review and analyze pertinent sentencing data and, where the information has not been provided in a particular case, ask the judge to specify the factor(s) upon which he or she relied in departing from the guideline recommendations or for imposing what appears to be a noncompliant sentence.

“(4) Conduct focus groups, community outreach, training and other activities designed to collect and disseminate information about the guidelines.

“(5) Starting in 2008, file a report with the Council on or before April 30 of each calendar year that contains an analysis of the sentences imposed in the preceding calendar year, including the rate of compliance with the guidelines, the number and extent of any departures from the guidelines and the reasons given for those departures. The report also shall describe any substantive changes made to the guidelines during the preceding year, including changes in the recommended sentencing options or prison ranges or changes in the ranking of particular offenses or the rules for scoring criminal history. The report also shall inform the Council how it has ranked any new felony offense or reranked any existing felony offense because of a statutory change or for another reason, and the resulting guideline sentencing options and prison range for each such an offense. The Commission shall not implement any changes in the basic structure of the voluntary sentencing guidelines without first informing the Council.

“(6) Review and research sentencing policies and practices locally and nationally, and make recommendations to increase the fairness and effectiveness of sentences in the District of Columbia.

“(7) Consult with other District of Columbia, federal, and state agencies that are affected by or address sentencing issues.”

(b) Section 3 (D.C. Official Code § 3-102) is amended as follows:

(1) Section 3(a)(1)(D) (D.C. Official Code § 3-102(a)(1)(D)) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General” in its place;

(2) Section 3(a)(1)(E) (D.C. Official Code § 3-102(a)(1)(E)) is amended by striking “designee, or, until that agency is certified and assumes its duties, the Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee or his or her designee;” and inserting “designee;” in its place;

(3) Section 3(b) (D.C. Official Code § 3-102(b)) is amended to read as follows:

“(b) Except for members serving ex officio, that is, (a)(1)(A)-(E) and (a)(2)(A)-(E), each member shall be appointed for a term of 3 years, and shall continue to serve during that time as long as the member remains eligible for the appointment. A member may be reappointed. A person appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed. Except for members serving ex officio, a member may be removed only for incompetence, neglect of duty, or misconduct.”

(d) Section 4(c) (D.C. Official Code § 3-103(c)) is amended by striking the numeral “7” and inserting the numeral “8” in its place.

(e) Section 5 (D.C. Official Code § 3-104) is repealed.

(f) Section 6 (D.C. Official Code § 3-105) is repealed.

Sec. 4. Section 2(b) of the Advisory Commission on Sentencing Amendment Act of 2006, effective January 1, 2007 (D.C. Law 16-126), is amended by amending the first sentence in Section 2a(c) to read as follows: “The Commission shall submit its recommendations for criminal code revisions in the form of reports.”

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report of the Chief Financial Officer as the fiscal impact statement required by section 602©(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02©(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

