

ENROLLMENT(S)

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COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-227

**"Department of Human Services and Commission on Mental Health
Services Mandatory Employee Drug and Alcohol Testing and Department
of Corrections Conforming Amendment Act of 1999"**

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-625, on first and second readings, November 10, 1998 and December 1, 1998, respectively. Following the signature of the Mayor on December 11, 1998, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-548 and published in the January 22, 1999, edition of the D.C. Register (Vol. 46 page 502) and transmitted to Congress on February 3, 1999 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 12-227 effective April 13, 1999.



LINDA W CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 3,4,8,9,10,11,12,22,23,24,25

Mar. 1,2,3,4,5,8,9,10,11,15,16,17,18,19,22,23,24,25

Apr 12



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

FEB 03 1999

The Honorable Albert Gore, Jr.
President of the Senate
United States Senate
Room S-212
United States Capitol
Washington, D. C. 20510

Re: Transmittal of D.C. ACT 12-548, "Department of Human Services and
Commission on Mental Health Services Mandatory Employee Drug and Alcohol
Testing and Department of Corrections Conforming Amendment Act of 1998".

Date of Council Action: 12-01-98

Dear Mr. President:

The above named act is thereby transmitted in accordance with section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198.

Attached to this act, for your information, is the report of the Council's standing committee with jurisdiction over this matter.

To begin the count of the 60-day review by Congress, please acknowledge receipt of this document on the copy attached.

Sincerely,

Linda W. Cropp
Chairman of the Council

Enclosure

Receipt Acknowledged:

OWN / Agdr / 2-3-99
Name - PLEASE PRINT Signature Date



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

FEB 03 1999

The Honorable J. Dennis Hastert
Speaker of the House
U. S. House of Representatives
Room H-209
United States Capitol
Washington, D. C. 20515

Re: Transmittal of D.C. ACT 12-548, "Department of Human Services and
Commission on Mental Health Services Mandatory Employee Drug and Alcohol
Testing and Department of Corrections Conforming Amendment Act of 1998".

Date of Council Action: 12-01-98

Dear Mr. Speaker:

The above named act is thereby transmitted in accordance with section 602(c) (2) of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198.

Attached to this act, for your information, is the report of the Council's standing committee with jurisdiction over this matter.

To begin the count of the 60-day review by Congress, please acknowledge receipt of this document on the copy attached.

Sincerely,

Linda W. Cropp
Chairman of the Council

Enclosure

Receipt Acknowledged:

Name - Gay Toppe / PLEASE PRINT

Signature Toppe

Date 2/3/99



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

FEB 03 1999

The Honorable Eleanor Holmes Norton
Member, U.S. House of Representatives
District of Columbia
1424 Longworth House Office Building
Washington, D. C. 20515

Re: Transmittal of D.C. ACT 12-548, "Department of Human Services and
Commission on Mental Health Services Mandatory Employee Drug and Alcohol
Testing and Department of Corrections Conforming Amendment Act of 1998".

Date of Council Action: 12-01-98

Dear Congresswoman Norton:

The above named act is thereby transmitted for your information.

A copy of the enclosed act has been transmitted to the Speaker of the House.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda W. Cropp".

Linda W. Cropp
Chairman of the Council

Enclosure



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

FEB 03 1999

The Honorable Thomas M. Davis
Chairman, Subcommittee on
The District of Columbia
United States House of Representatives
B349A Rayburn House Office Building
Washington, D. C. 20515

Re: Transmittal of D.C. ACT 12-548, "Department of Human Services and
Commission on Mental Health Services Mandatory Employee Drug and Alcohol
Testing and Department of Corrections Conforming Amendment Act of 1998".

Date of Council Action: 12-01-98

Dear Mr. Chairman:

The above named act is thereby transmitted for your information.

A copy of the enclosed act has been transmitted to the Speaker of the House.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda W. Cropp".

Linda W. Cropp
Chairman of the Council

Enclosure



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

FEB 03 1999

The Honorable George Voinovich
Chairman, Subcommittee on Oversight of Government
Management, Restructuring & the District of Columbia
United States Senate
601 Hart Senate Office Building
Washington, D.C. 20510

Re: Transmittal of D.C. ACT 12-548, "Department of Human Services and
Commission on Mental Health Services Mandatory Employee Drug and Alcohol
and Department of Corrections Conforming Amendment Act of 1998".

Date of Council Action: 12-01-98

Dear Mr. Chairman:

The above named act is thereby transmitted for your information.

A copy of the enclosed act has been transmitted to the President of the Senate.

Sincerely,

A handwritten signature in cursive script that reads "Linda W. Cropp".

Linda W. Cropp
Chairman of the Council

Enclosure



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

FEB 03 1998

The Honorable Richard J. Durbin
Ranking Minority Member
Subcommittee on Oversight of Government
Management, Restructuring & the District of Columbia
United States Senate
316 Hart Senate Office Building
Washington, D.C. 20510

Re: Transmittal of D.C. ACT 12-548, "Department of Human Services and
Commission on Mental Health Services Mandatory Employee Drug and Alcohol
Testing and Department of Corrections Conforming Amendment Act of 1998".

Date of Council Action: 12-01-98

Dear Senator Durbin:

The above named act is thereby transmitted for your information.

A copy of the enclosed act has been transmitted to the President of the Senate.

Sincerely,

A handwritten signature in cursive script that reads "Linda W. Cropp".

Linda W. Cropp
Chairman of the Council

Enclosure

AN ACT

D.C. ACT 12-548

*Codification
District of
Columbia
Code
1999 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 11, 1998

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978, to establish a mandatory drug and alcohol testing policy for certain employees of the District of Columbia Department of Human Services and Commission on Mental Health Services, to ensure that care for residents at the District's secured and residential facilities for juveniles and persons with mental illness is provided in a safe and secure environment and to amend the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996 to bring the testing levels in line with other District testing levels.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Human Services and Commission on Mental Health Services Mandatory Employee Drug and Alcohol Testing and Department of Corrections Conforming Amendment Act of 1998".

New
Subchapter
XXI-B,
Chapter 6,
Title 1

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), is amended by adding a new title XX-B to read as follows:

"TITLE XX-B

"MANDATORY DRUG AND ALCOHOL TESTING OF CERTAIN EMPLOYEES OF THE DEPARTMENT OF HUMAN SERVICES AND THE COMMISSION ON MENTAL HEALTH SERVICES.

"Sec. 2021. Definitions.

"For the purposes of this title, the term:

New Section
1-621.61

"(1) "Applicant" means a person who has filed a written employment application form to work for the Department or the Commission or has been tentatively selected for employment by either the Department or the Commission to work as a high potential risk employee.

"(2) "Commission" means the Commission on Mental Health Services.

"(3) "Department" means the Department of Human Services.

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"(4) "High potential risk employee" means any Department or Commission employee who has resident care or custody responsibilities in a secured facility or who works in a residential facility.

"(5) "Post-accident employee" means any Department or Commission employee who, while on duty, was involved in a vehicular or other type of accident resulting in personal injury or property damage, or both.

"(6) "Probable cause" means a reasonable belief by a supervisor that an employee is under the influence of an illegal substance or alcohol such that the employee's ability to perform his or her job is impaired.

"(7) "Probable cause referral" means a referral, based on probable cause, for testing by the Department or the Commission for drug or alcohol use.

"(8) "Random testing" means drug or alcohol testing taken by a Department or Commission employee at an unspecified time for the purposes of determining whether any Department or Commission employee has used drugs or alcohol and as a result is unable to satisfactorily perform his or her employment duties.

"(9) "Residential facility" means a facility that provides a supervised and sheltered living environment for individuals who need such an environment because of their mental, familial, social, or other circumstances.

"(10) "Secured facility" means a hospital or institution that is:
(A) Leased, or owned by the District government;
(B) Operated by the District government; and
(C) Equipped and qualified to provide in-resident or in-patient care to detained or committed youth or persons suffering from mental illness.

"Sec. 2022. Employee testing.

**New Section
1-621.62**

"(a) The following Department and Commission employees and prospective employees shall be tested for drug and alcohol use:

"(1) Applicants for positions that would qualify them as high potential risk employees;

"(2) Employees who have had a probable cause referral;

"(3) Post-accident employees, as soon as reasonably possible after an accident;
and

"(4) High potential risk employees.

"(b) Only high potential risk employees shall be subject to random testing.

"(c) All employees of the Department and Commission shall be given written notice, issued at least 30 days before the implementation of a drug and alcohol testing program, that the Department and Commission will implement a drug and alcohol testing program.

"(d) No employee may be tested for drug or alcohol use prior to receiving the notice required by subsection (c) of this section.

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"(e) Conditions giving rise to probable cause must be observed and documented. Supervisors shall be trained in substance abuse recognition and shall receive a second opinion from another supervisor prior to making a probable cause referral.

"(f) An employee shall be given one opportunity to seek treatment following a positive test result.

"(g) The Department and the Commission shall procure the services of a contractor to perform the tests required by this title.

"(h) All testing conducted by a vendor shall be implemented pursuant to this title.

"Sec. 2023. Testing methodology.

New Section
1-621.63

"(a) Testing shall be performed by an outside contractor. The contractor shall be certified by the United States Department of Health and Human Services ("HHS") to perform job related drug and alcohol forensic testing.

"(b)(1) For random testing, the contractor shall come on-site to Department or Commission institutions.

"(2) The contractor shall collect urine specimens and split the samples.

"(c) The contractor shall perform enzyme-multiplied-immunoassay technique ("EMIT") testing on one sample and store the other sample. Any positive EMIT test shall be confirmed by the contractor using gas chromatography/mass spectrometry ("GCMS") methodology.

"(d) Any Department or Commission employee found to have a confirmed positive urinalysis shall be notified of the result. The employee may then authorize the stored sample to be sent to another HHS certified laboratory of his or her choice, at his or her expense, for secondary GCMS confirmation.

"(e) Probable cause and post-accident testing shall follow the same procedures set forth in subsections (a) through (d) of this section. In such cases, the employee shall be escorted by a supervisor to the contractor's test site for specimen collection or breathalyzer.

"(f) A breathalyzer shall be deemed positive by the Department's or Commission's testing contractor if the contractor determines that 1 milliliter of the employee's breath (consisting of substantially alveolar air) contains .38 micrograms or more of alcohol.

"Sec. 2024. Implied consent of employees who operate motor vehicles.

New Section
1-621.64

"Any Department or Commission employee who operates a motor vehicle in the performance of his or her employment within the District of Columbia shall be deemed to have given his or her consent, subject to the provisions of this title, to the testing of the employee's urine or breath, for the purpose of determining drug or alcohol content, whenever a supervisor has the probable cause or a police officer arrests such employee for a violation of section 10 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1124; D.C. Code 40-716) or has reasonable grounds to believe such employee to have been operating or in physical control of a motor vehicle within the District while that employee's breath contained .08% or more, by weight, of alcohol, or while under the influence of an intoxicating liquor or any drug or any combination thereof, or while the employee's ability to operate a motor vehicle was

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impaired by the consumption of intoxicating liquor.

"Sec. 2025. Procedure and employee impact.

**New Section
1-621.65**

"(a) The drug and alcohol testing policy shall be issued in writing in advance of program implementation to inform employees and allow them the opportunity to seek treatment. An employee shall be allowed only one opportunity to seek treatment following his or her first positive test result. Thereafter, any confirmed positive drug test, or positive breathalyzer test, or a refusal to submit to a drug or breathalyzer test shall be grounds for termination of employment.

"(b) The program shall cover all Department and Commission employees, including management, and shall be implemented as a single program of the Department and a single program of the Commission.

"(c) The results of any random test conducted pursuant to this title may not be turned over to any law enforcement agency without the employee's written consent."

Sec. 3. Section 4 of the Department of Corrections Employee Mandatory Drug and Alcohol Testing Act of 1996, effective September 20, 1996 (D.C. Law 11-158; D.C. Code § 24-448.3), is amended as follows:

**Section
24-448.3**

(a) Subsection (e) is amended by striking the phrase ".10%" and inserting the phrase ".08%" in its place.

(b) Subsection (f) is amended by striking the number ".48" and inserting the number ".38" in its place.

Sec. 4 Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

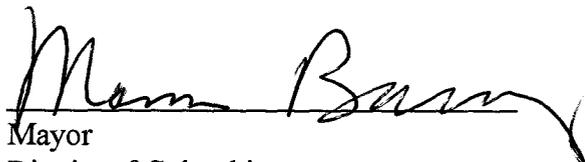
Sec. 5. Effective date.

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), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 60-day period of Congressional review as provided in

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section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(2)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: December 11, 1998



COUNCIL OF THE DISTRICT OF COLUMBIA
 COUNCIL PERIOD TWELVE
 RECORD OF OFFICIAL COUNCIL VOTE

B12-625

Docket No. _____

ITEM ON CONSENT CALENDAR

ACTION & DATE _____

ADOPTED FIRST READING, 11-10-98
 APPROVED

VOICE VOTE
 RECORDED VOTE ON REQUEST

ABSENT _____

AMBROSE, MASON AND THOMAS

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

Phyllis Jones
 Secretary to the Council

CERTIFICATION RECORD

December 4, 1998
 Date

ITEM ON CONSENT CALENDAR

ACTION & DATE _____

ADOPTED FINAL READING, 12-01-98
 APPROVED

VOICE VOTE
 RECORDED VOTE ON REQUEST

ABSENT _____

ALL PRESENT

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not voting

Phyllis Jones
 Secretary to the Council

CERTIFICATION RECORD

December 4, 1998
 Date

ITEM ON CONSENT CALENDAR

ACTION & DATE _____

VOICE VOTE
 RECORDED VOTE ON REQUEST

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date