

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-205

"Criminal Background Investigation for the Protection of Children Temporary Act of 1998"

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. 12-693, on first and second readings, July 7, 1998 and September 22, 1998, respectively. Following the signature of the Mayor on October 13, 1998, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-491 and published in the December 4, 1998, edition of the D.C. Register (Vol. 45 page 8420) and transmitted to Congress on January 29, 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 12-205, effective March 26, 1999.



LINDA W CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 2,3,4,8,9,10,11,12,22,23,24,25

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

AN ACT

D.C. ACT 12-491

Codification
District of
Columbia
Code
1999 Supp.

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 13, 1998

To require, on an temporary basis, criminal background investigations for individuals seeking to adopt a child and for individuals residing in foster family homes or other homes in which children are placed by court order.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Criminal Background Investigation for the Protection of Children Temporary Act of 1998".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Adult" means an individual who has attained 18 years of age.
- (2) "Director" means the Director of the District of Columbia Department of Human Services.
- (3) "Division" means the Family Division of the Superior Court of the District of Columbia.
- (4) "Foster family home" means a home described in Title XVII of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code § 3-217.1 *et seq.*), or another foster family home in the District of Columbia established by law.
- (5) "Licensed child-placing agency" means an individual or entity defined as such in section 2 of An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 193; D.C. Code § 32-1002).

Note,
Sections
32-1011,
16-307

Sec. 3. Criminal background investigation required for certain individuals.

The following individuals shall apply for a criminal background investigation in accordance with section 4:

- (1) An individual who seeks to adopt a child under Chapter 3 of Title 16 of the District of Columbia Code;

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(2) An adult, other than a parent of the child, but including a relative of the child, who resides in the home of an individual described in paragraph (1) of this section;

(3) Upon order of a judicial officer, an individual with whom a child is placed under section 16-2320(a)(2) or (a)(3)(C) of the District of Columbia Code;

(4) Upon order of a judicial officer, an adult who resides in the home of an individual with whom a child is placed under section 16-2320(a)(2) or (a)(3)(C) of the District of Columbia Code, including a parent or other relative of the child; and

(5) An adult who resides in a foster family home in which a child is placed, including a relative of the child, and, upon order of a judicial officer, a parent of the child.

Sec. 4. Request for criminal background investigation.

(a) Within the time stated in subsection (b) of this section, an individual described in section 3 shall submit to the Metropolitan Police Department ("MPD") for transmittal to the Federal Bureau of Investigation ("FBI") a complete set of legible fingerprints on a fingerprint card in a form approved by the FBI. The MPD shall request the FBI to conduct a criminal background investigation of the individual and shall request that the FBI forward the results to the Director. After receiving the results of the investigation, the Director shall forward them to the Division at the request of the Division.

(b) The time in which the request must be made to the FBI pursuant to subsection (a) of this section is as follows:

(1) For an individual described in section 3(1), before the individual files a petition for adoption pursuant to section 16-305 of the District of Columbia Code;

(2) For an individual described in section 3(2), before the individual described in section 3(1) files a petition for adoption, or, if the individual becomes a resident of the home of the individual described in section 3(1) after the filing of the petition, within 10 calendar days after the individual becomes a resident of the home;

(3) For an individual described in section 3(3) or 3(4), as specified in the judicial order, or, if a time is not so specified, within 10 calendar days after the placement of the child in the home;

(4) For an individual described in section 3(5), within 2 business days after the placement of the child in the foster care home unless, within 1 year of the placement of the child in the home, the Director has received the results of a criminal background investigation and considers the results satisfactory;

(5) For an individual described in section 3(4) or 3(5) who was not a resident of the foster family home when the child was placed in the home, within 10 calendar days after the individual becomes a resident of that home; and

(6) For an individual described in section 3 who was not subject to this act solely because the individual was a minor, but who becomes an adult while the child is residing in the same home, within 90 calendar days after the individual becomes an adult.

Sec. 5. Payment of processing fees.

(a) Except as otherwise provided in subsection (b) of this section, the Director shall pay the fees charged by the FBI and the MPD for processing a request for a criminal background investigation.

(b) The following individuals shall pay the fees described in subsection (a) of this section:

(1) An individual described in section 3(1) who is seeking to adopt a child, other than a child found neglected under Chapter 23 of Title 16 of the District of Columbia Code or a child with respect to whom parental rights have been relinquished under section 6 of An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 194; D.C. Code § 32-1007); and

(2) An adult who resides in the home of an individual described in paragraph (1) of this subsection.

Sec. 6. Confidentiality of information to be maintained.

(a) No employee of the Department of Human Services or other agency of the District of Columbia shall disclose information obtained as a result of a request submitted pursuant to section 4(a) to any unauthorized individual or entity.

(b) This act does not authorize the disclosure of information concerning an individual who was not an adult, or prosecuted as an adult, at the time to which the information pertains if the disclosure of such information is prohibited by other law.

Sec. 7. Effect of failure to request investigation.

(a) If an individual described in section 3(1) fails to request an investigation as required by this act, the Division may deny or dismiss the petition for adoption.

(b) If an individual described in section 3(2) fails to request an investigation as required by this act, the Division may dismiss the petition for adoption.

(c) If an individual described in section 3(3) fails to request an investigation as required by this act, the Division may refuse to place the child in the individual's home, remove the child from the home, or take other appropriate action to ensure the health, welfare, or safety of the child.

(d) If an individual described in section 3(4) fails to request an investigation as required by this act, the Division may remove the child from the home or take any other appropriate action to ensure the health, welfare, or safety of the child.

(e) If an individual described in section 3(5) fails to request an investigation as required by this act, the Division may remove the child from the foster family home or take any other appropriate action to ensure the health, welfare, and safety of the child.

(f) If an individual described in section 4(b)(6) fails to request an investigation as required by this act, the Division may take the applicable action described in subsection (b), (d), or (e) of this section.

Sec. 8. Penalties for violations of act.

An individual who discloses confidential information in violation of section 6 is guilty of a criminal offense and, upon conviction, is subject to a fine not to exceed \$1,000 or a term of incarceration of not more than 180 days, or both.

Sec. 9. Rules.

The Mayor may promulgate rules to carry out the purposes of this act.

Sec. 10. Fiscal impact statement.

The Council expects that the net fiscal impact of this legislation will be neutral or positive. The cost charged by the Federal Bureau of Investigation for each criminal record check is \$18.00, and it is estimated that the total number of adults for whom a criminal record check will be required each year is 5,000, for an total annual cost of \$90,000. However, it is expected that this cost will be more than counterbalanced by a reduction of the costs to the District that would otherwise be incurred as a result of failed placements caused by caretakers or adults residing in the home who have criminal records indicating that they pose a threat of harm to the children who were placed. The costs that will be reduced include the costs of social workers, therapeutic services, attorney's fees, and judicial proceedings, where, as has occurred in several cases, it becomes necessary to remove children from foster homes, third-party placements, or adoptive homes because of risks posed to children. Moreover, it is expected that a part of the costs of criminal record checks can be paid by funds available to the District and to foster and adoptive parents under the Adoption and Safe Families Act of 1997, approved November 19, 1997 (P.L. 105-89; 111 Stat. 2115), as increased numbers of adoptions are expedited.

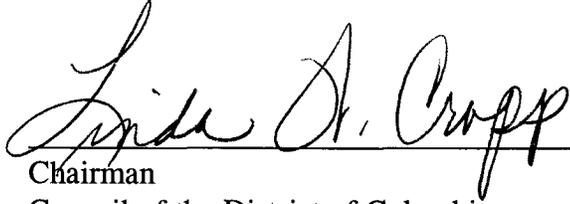
Sec. 11. Effective date.

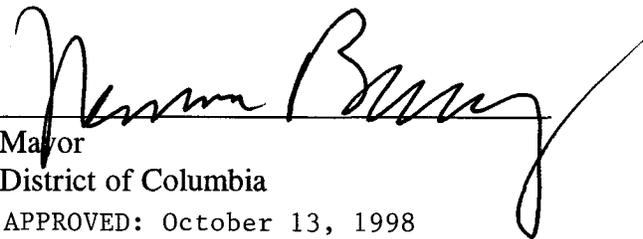
(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of

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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. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: October 13, 1998



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

B12-693

Docket No. _____

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 7-7-98

VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT _____

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

CERTIFICATION RECORD

[Signature]
Secretary to the Council

September 30, 1998
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 9-22-98

VOICE VOTE
RECORDED VOTE ON REQUEST

APPROVED

ABSENT _____

MASON

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

[Signature]
Secretary to the Council

September 30, 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