

COUNCIL OF THE DISTRICT OF COLUMBIA

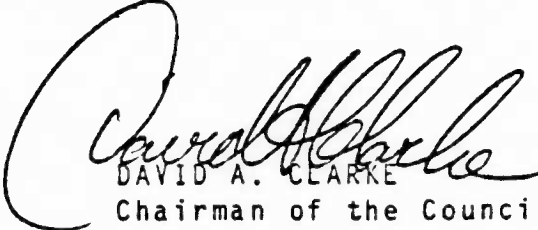
NOTICE

D.C. LAW 4-202

"District of Columbia Sentencing Improvements Act of 1982".

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. 4-120 on first and second readings, November 16, 1982, and December 14, 1982, respectively. Following the signature of the Mayor on December 28, 1982, this legislation was assigned Act No. 4-286, published in the January 14, 1983, edition of the D.C. Register, (Vol. 30 page 173) and transmitted to Congress on January 7, 1983 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 4-202, effective March 10, 1983.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	25,26,27,28,31
February	1,2,3,4,7,8,9,10,11,14,15,16,17,22,23,24,25,28
March	1,2,3,4,7,8,9

D.C. LAW 4-202
EFFECTIVE DATE MAR 10 1983

AN ACT

D.C. ACT 4-286

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 28 1982

To promote the use of restitution and community service as sentencing options; to ensure notice to aliens of the consequences of a guilty plea; to provide for split sentencing of offenders; to limit the applicable period of probation; to authorize the sentencing judge of a probation violator to impose a different sentence; to allow the Board to Parole to grant work release to misdemeanants; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "District of Columbia Sentencing Improvements Act of 1982".

Sec. 2. D.C. Code, title 16, chapter 7 is amended by adding to the end thereof the following new sections to read as follows:

"Sec. 16-711. Restitution or reparation.

"(a) In criminal cases in the Superior Court, the court may, in addition to any other sentence imposed as a condition of probation or as a sentence itself, require a person convicted of any offense to make reasonable restitution or reparation.

"(b) When restitution or reparation is ordered, the court shall take into consideration the number of victims, the actual damage of each victim, the resources of the defendant, the defendant's

CODIFICATION
New
D.C.Code,
sec. 16-711

ability to earn, any obligation of the defendant to support dependents, and other matters as pertain to the defendant's ability to make restitution or reparation.

"(c) The court shall fix the manner of performing restitution or reparation.

"(d) At any time during the probation period or period of restitution or reparation, the defendant may request and the court may grant a hearing on any matter related to the plan of restitution or reparation.

"Sec. 16-712. Community service.

"(a) In criminal cases in the Superior Court of the District of Columbia, the court may, in addition to any other sentence imposed, require a person convicted of any offense as a condition of probation or as a sentence itself, to undertake reasonable services to the community for a period not to exceed 5 years in duration.

New
D.C.Code,
sec. 16-712

"(b) When community service is ordered, the court shall take into consideration the physical and mental health of the defendant, his or her age, education, employment and vocational training, family circumstances, financial condition, and any other factors as shall be appropriate.

"(c) The court shall fix the manner of performing community service.

"(d) At anytime during the probation period or period

of community service, the defendant may request and the court may grant a hearing on any matter related to the plan of community service.

"Sec. 16-713. Alien sentencing.

"(a) Prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime, the court shall administer the following advisement on the record to the defendant:

New
D.C.Code,
sec. 16-713

'If you are not a citizen of the United States, you are advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.'

"(b) Upon request, the court shall allow the defendant a reasonable amount of additional time to consider the appropriateness of the plea in light of the advisement. If the court fails to advise the defendant as required by subsection (a) and the defendant shows that conviction of the offense to which the defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the

plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by subsection (a), the defendant shall be presumed not to have received the required advisement."

Sec. 3. D.C. Code, sec. 16-710 is amended to read as follows:

D.C.Code,
sec. 16-710

"(a) Except as provided in subsection (b), in criminal cases in the Superior Court of the District of Columbia, the court may, upon conviction, suspend the imposition of sentence or impose sentence and suspend the execution thereof, or impose sentence and suspend the execution of a portion thereof, for such time and upon such terms as it deems best, if it appears to the satisfaction of the court that the ends of justice and the best interest of the public and of the defendant would be served thereby. In each case of the imposition of sentence and the suspension of the execution thereof, or the imposition of sentence and the suspension of the execution of a portion thereof, the court may place the defendant on probation under the control and suspension of a probation officer. The probationer shall be provided by the clerk of the court with a written statement of the terms and conditions of his probation at the time when he is placed thereon. He shall observe the rules prescribed for his conduct by the court and report to the probation officer as directed. A person may not be put on probation without his consent.

"(b) The period of probation referred to in subsection

(a), together with any extension thereof, shall not exceed 5 years.

"(c) Nothing in this section shall be deemed to supersede the provisions of section 907A of An Act To establish a code of law for the District of Columbia, approved July 29, 1970 (84 Stat. 599; D.C. Code, sec. 22-104a)."

Sec. 4. Section 4 of An Act For the establishment of a probation system for the District of Columbia, approved June 25, 1910 (36 Stat. 865; D.C. Code, sec. 24-104) is amended by striking the entire text immediately following the phrase "as the case may be," and inserting the text "or any lesser sentence. If imposition of sentence was suspended, the court may impose any sentence which might have been imposed. If probation is revoked, the time of probation shall not be taken into account to diminish the time for which he was originally sentenced." in lieu thereof.

D.C.Code,
sec. 24-104
(1981 ed.)

Sec. 5. Section 2 of the District of Columbia Work Release Act, approved November 10, 1966 (80 Stat. 1519; D.C. Code, sec. 24-461) is amended as follows:

(1) by striking the phrase "section 16-2350, District of Columbia Code," and inserting the phrase "section 2 of An Act for the establishment of a probation system for the District of Columbia, approved June 25, 1910 (36 Stat. 865; D.C. Code, sec. 24-104)" in lieu thereof; and

D.C.Code,
sec. 24-461
(1981 ed.)

(2) by inserting after the word "thereby" the phrase "or whenever after service by the person of 1/3 of his or her sentence, the Board of Parole is satisfied that

the ends of justice and the best interests of society as well as of the sentenced person would be served thereby."

Sec. 6. Section 3 of the District of Columbia Work Release Act, approved November 10, 1966 (80 Stat. 1519; D.C. Code, sec. 24-462) is amended by inserting following the phrase "order of the sentencing court" the phrase ", or the Board of Parole pursuant to section 2".

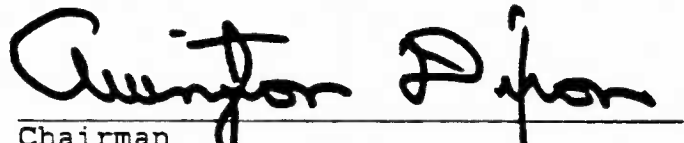
D.C.Code,
sec. 24-462
(1981 ed.)

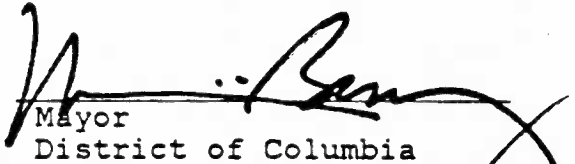
Sec. 7. Section 827 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1324; D.C. Code, sec. 22-2202) is amended by striking the last sentence.

D.C.Code,
sec. 22-2202
(1981 ed.)

Sec. 8. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code,

sec. 1-233(c)(2)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: December 28, 1982



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Four

Second Session

DOCKET NO: B 4-120

[] Item on Consent Calendar

ACTION: Adopted First Reading, 11-16-82

[X] VOICE VOTE: By Majority

Absent: Shackleton and Crawford

[] ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

William R. Cunningham 12/20/82
Secretary to the Council Date

[] Item on Consent Calendar

ACTION: Adopted Final Reading, 12-14-82

[X] VOICE VOTE: Unanimous

Absent: all present

[] ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD

William R. Cunningham 12/20/82
Secretary to the Council Date

[] Item on Consent Calendar

ACTION:

[] VOICE VOTE:

Absent:

[] ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE, JR.					WILSON				
CRAWFORD					RAY									
JARVIS					ROLARK									

X - Indicates Vote A.B. - Absent N.V. - Not Voting

CERTIFICATION OF RECORD