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A BILL  
23-730

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Office of Administrative Hearings Establishment Act of 2001 to extend the jurisdiction of the Office of Administrative Hearings to adjudicated cases involving certain civil violations relating to fare evasion and other unlawful conduct on passenger vehicles; to amend the District of Columbia Mental Health Information Act of 1978 to authorize mental health professionals to disclose mental health information when necessary to request an extreme risk protection order and to require the disclosure of mental health information to the Office of Attorney General in response to a court order; to amend the Firearms Control Regulations Act of 1975 to prohibit the issuance of a firearm registration certificate to the subject of an extreme risk protection order, to require the Superior Court for the District of Columbia, for good cause shown, to issue such orders as may be necessary to obtain mental health records and other relevant information for the purposes of petitions for relief from disqualifications from firearm registration, to authorize the Mayor to issue rules - subject to Council review, to implement the provisions of the Firearms Control Regulations Act of 1975, to clarify that the Office of Attorney General may intervene and represent the interests of the District of Columbia with respect to petitions for extreme risk protection orders or provide individual legal representation, upon request, to a petitioner, to broaden the court’s ability to place records related to extreme risk protection orders under seal, to establish procedures for computing periods of time relating to an extreme risk protection order, to provide for the use of calendar days instead of business days for timelines related to extreme risk protection orders, to require that the court consider the unlawful or reckless use, display, or brandishing of any weapon by the respondent in determining whether to issue an extreme risk protection order, to require that the initial hearing for a petition for a final extreme risk protection order be held within 14 days after the petition was filed, to require the Superior Court for the District of Columbia, for good cause shown, to issue such orders as may be necessary to obtain mental health records and other relevant information for the purposes of petitions for an extreme risk protection order, to modify the duration of ex parte extreme risk protection orders, to establish procedures for the issuance and execution of search warrants accompanying extreme risk protection orders, to add the Office of Attorney General and the Superior Court for the District of Columbia to the list of entities that shall receive from the Metropolitan Police Department information related to extreme risk protection orders, to

41 require the Mayor or the Mayor’s designee to submit information about extreme risk  
42 protection orders to the National Instant Criminal Background Check System for the  
43 purposes of firearm purchaser background checks; to amend the Homeland Security, Risk  
44 Reduction, and Preparedness Amendment Act of 2006 to create a quorum requirement for  
45 the Comprehensive Homicide Elimination Strategy Task Force and extend its report  
46 submission deadline; and to amend the Act to Regulate Public Conduct on Public Passenger  
47 Vehicles to provide that certain violations of the act shall be punishable by civil fine and  
48 adjudicated by the Office of Administrative Hearings and to authorize Metro Transit Police  
49 Department officers to issue notices of infractions for alleged civil violations.  
50

51 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
52 act may be cited as the “Firearms Safety Omnibus Clarification Temporary Amendment Act of  
53 2020”.

54 Sec. 2. Section 6 of the Office of Administrative Hearings Establishment Act of 2001,  
55 effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by adding  
56 a new subsection (b-26) to read as follows:

57 “(b-26) This act shall apply to all adjudicated cases involving a civil violation penalized  
58 under section 5(a) of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective  
59 September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254(a)).”

60 Sec. 3. Title IV of the District of Columbia Mental Health Information Act of 1978,  
61 effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1204.01 et seq.), is amended as  
62 follows:

63 (a) Section 402 (D.C. Official Code § 7-1204.02) is amended to read as follows:

64 “Sec. 402. Civil commitment proceedings; extreme risk protection orders.

65 “Mental health information may be disclosed by a mental health professional when and to  
66 the extent necessary to:

67 “(1) Initiate or seek civil commitment proceedings under D.C. Official Code § 21-  
68 541; or

69 “(2) Request an extreme risk protection order under Title X of the Firearms Control  
70 Regulations Act of 1975, effective May 10, 2019 (D.C. Law 22-314; 66 DCR 1672).”.

71 (b) Section 403 (D.C. Official Code § 7–1204.03) is amended by adding a new subsection  
72 (c) to read as follows:

73 “(c) Mental health information shall be disclosed to the Office of the Attorney General for  
74 the District of Columbia in response to a court order issued pursuant to section 203(f)(3)(A)(i) of  
75 the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C.  
76 Official Code § 7-2502.03(f)(3)(A)(i)) (“Firearms Act”) or section 1003(d)(2) of the Firearms Act  
77 (D.C. Official Code § 7-2510.03(d)(2)).”.

78 Sec. 4. The Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C.  
79 Law 1-85; D.C. Official Code § 7–2501.01 et seq.), is amended as follows:

80 (a) Section 203 (D.C. Official Code § 7-2502.03) is amended as follows:

81 (1) Subsection (a)(15) is amended to read as follows:

82 “(15) Is not the subject of an ex parte extreme risk protection order issued pursuant  
83 to section 1004 or a final extreme risk protection order issued pursuant to section 1003 or renewed  
84 pursuant to section 1006.”.

85 (2) Subsection (f)(3) is amended as follows:

86 (A) Subparagraph (A) is amended to read as follows:

87 “(A)(i) Upon receipt of a petition filed under paragraph (1) of this  
88 subsection, and for good cause shown, the court shall issue such orders as may be necessary to  
89 obtain any mental health records and other information relevant for the purposes of the petition.  
90 The order shall require the disclosure of records to the Office of the Attorney General so that the  
91 Office of the Attorney General can conduct a search of the petitioner’s mental health records and  
92 report its findings to the court as required by subparagraph (B) of this paragraph.

93 “(ii) The court shall order the Office of the Attorney General to file  
94 a response to the petition. Within 60 days after the court’s order for a response, the Office of the  
95 Attorney General shall file a response indicating whether the Office of the Attorney General  
96 supports or opposes the petition.

97 “(iii) The court may, for good cause shown, extend in 30-day  
98 increments the date by which the Office of Attorney General must file its response under sub-  
99 subparagraph (ii) of this subparagraph.”.

100 (B) Subparagraph (B) is amended by striking the phrase “criminal history”  
101 and inserting the phrase “criminal history and firearms eligibility” in its place.

102 (b) Section 705(b) (D.C. Official Code § 7–2507.05(b)) is amended by striking the phrase  
103 “the United States Attorney and the Corporation Counsel for the District whether” and inserting

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104 the phrase “the United States Attorney’s Office and the Office of Attorney General whether” in its  
105 place.

106 (c) Section 712 (D.C. Official Code § 7–2507.11) is amended to read as follows:

107 “The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,  
108 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to  
109 implement the provisions of this act. The proposed rules shall be submitted to the Council for a  
110 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.  
111 If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution  
112 within the 45-day review period, the proposed rules shall be deemed approved.”.

113 (d) Section 1001(2)(A) (D.C. Official Code § 7-2510.01(2)A)) is amended by striking the  
114 phrase “relationship rendering the application of this title appropriate” and inserting the word  
115 “relationship” in its place.

116 (e) Section 1002 (D.C. Official Code § 7-2510.02) is amended as follows:

117 (1) Subsection (a) is amended as follows:

118 (A) Paragraph (3) is amended by striking the semicolon and inserting the  
119 phrase “; and” in its place.

120 (B) Paragraph (4) is repealed.

121 (2) Subsection (c) is amended to read as follows:

122 “(c)(1) The Office of the Attorney General may:

123                   “(A) Intervene in the case and represent the interests of the District of  
124 Columbia; or

125                   “(B) At the request of the petitioner, provide individual legal representation  
126 to the petitioner in proceedings under this title.

127                   “(2) If the Office of the Attorney General intervenes in a case under paragraph  
128 (1)(A) of this subsection, the intervention shall continue until:

129                   “(A) The court denies the petition for a final extreme risk protection order  
130 pursuant to section 1003;

131                   “(B) The court terminates a final extreme risk protection order pursuant to  
132 section 1008; or

133                   “(C) The Office of the Attorney General withdraws from the intervention.”.

134                   (3) Subsection (d) is amended to read as follows:

135                   “(d) The court may place any record or part of a proceeding related to the issuance, renewal,  
136 or termination of an extreme risk protection order under seal for good cause shown.”.

137                   (4) A new subsection (e) is added to read as follows:

138                   “(e) When computing a time period specified in this title, or in an order issued under this  
139 title:

140                   “(1) Stated in days or a longer unit of time:

141                   “(A) Exclude the day of the event that triggers the time period;

142                   “(B) Count every day, including intermediate Saturdays, Sundays and legal  
143 holidays; and

144                   “(C) Include the last day of the time period, but if the last day of the time  
145 period specified falls on a Saturday, Sunday, a legal holiday, or a day on which weather or other  
146 conditions cause the court to be closed, the time period specified shall continue to run until the end  
147 of the next day that is not a Saturday, Sunday, legal holiday, or a day on which weather or other  
148 conditions cause the court to be closed.

149                   “(2) Stated in hours:

150                   “(A) Begin counting immediately on the occurrence of the event that  
151 triggers the time period;

152                   “(B) Count every hour, including hours during intermediate Saturdays,  
153 Sundays, and legal holidays; and

154                   “(C) If the time period would end on a Saturday, Sunday, legal holiday, or  
155 a day on which weather or other conditions cause the court to be closed, the time period shall  
156 continue to run until the same time on the next day that is not a Saturday, Sunday, legal holiday,  
157 or a day on which weather or other conditions cause the court to be closed.”.

158                   (f) Section 1003 (D.C. Official Code § 7-2510.03) is amended as follows:

159                   (1) Subsection (a)(2) is amended to read as follows:

160                   “(2) The initial hearing shall be held within 14 days after the date the petition was  
161 filed.”.

162 (2) Subsection (b) is amended as follows:

163 (A) Paragraph (1) is amended by striking the phrase “5 business days” and  
164 inserting the phrase “7 days” in its place.

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

166 “(3) If the respondent is unable to be personally served after the court has set a new  
167 hearing date and required new attempts at service pursuant to paragraph (2) of this subsection, the  
168 court may dismiss the petition without prejudice.”.

169 (3) Subsection (d) is amended to read as follows:

170 “(d) Upon receipt of a petition filed under section 1002, and for good cause shown, the  
171 court shall issue such orders as may be necessary to obtain any mental health records and other  
172 information relevant for the purposes of the petition. The order shall require the disclosure of  
173 records to the Office of the Attorney General so that it can conduct a search of the respondent’s  
174 mental health records and report its findings to the court as required by this subsection. Before the  
175 hearing for a final extreme risk protection order, the court shall order that the Office of the Attorney  
176 General:

177 “(1) Conduct a reasonable search of all available records to determine whether the  
178 respondent owns any firearms or ammunition;

179 “(2) Conduct a reasonable search of all available records of the respondent’s mental  
180 health;

181           “(3) Perform a national criminal history and firearms eligibility background check  
182 on the respondent; and

183           “(4) Submit its findings under this subsection to the court.”.

184           (4) The lead-in language for subsection (e) is amended by striking the phrase  
185 “consider all relevant evidence,” and inserting the phrase “consider any exhibits, affidavits,  
186 supporting documents, and all other relevant evidence,” in its place.

187           (5) Subsection (h)(6) is amended by striking the phrase “connected with a petition  
188 filed under this title” and inserting the phrase “connected with this title” in its place.

189           (g) Section 1004 (D.C. Official Code § 7-2510.04) is amended as follows:

190           (1) Subsection (c) is amended as follows:

191                   (A) The lead-in language for subsection (c) is amended by striking the  
192 phrase “consider all relevant evidence,” and inserting the phrase “consider any exhibits, affidavits,  
193 supporting documents, and all other relevant evidence,” in its place.

194                   (B) Paragraph (4) is amended by striking the phrase “firearm by” and  
195 inserting the phrase “firearm or other weapon by” in its place.

196           (2) Subsection (f) is amended by striking the phrase “to section” and inserting the  
197 phrase “to this section” in its place.

198           (3) Subsection (g) is amended as follows:

199                   (A) Paragraph (3) is amended to read as follows:

200           “(3) The date and time the order will expire;”.

201 (B) Paragraph (7) is amended to read as follows:

202 “(7) The procedures for the surrender of firearms, ammunition, registration  
203 certificates, licenses to carry a concealed pistol, or dealer’s licenses in the respondent’s possession,  
204 control, or ownership pursuant to section 1007; and”.

205 (4) Subsection (h) is amended to read as follows:

206 “(h) An ex parte extreme risk protection order issued pursuant to this section shall remain  
207 in effect for an initial period not to exceed 14 days. The court may extend an ex parte extreme risk  
208 protection order in additional 14-day increments for good cause shown.”.

209 (h) Section 1005(a) (D.C. Official Code § 7-2510.05) is amended as follows:

210 (1) Paragraph (2) is amended by striking the phrase “next business day” and  
211 inserting the phrase “next day” in its place.

212 (2) Paragraph (3) is amended by striking the phrase “5 business days” and inserting  
213 the phrase “7 days” in its place.

214 (3) Paragraph (4) is amended by striking the phrase “one business day” and  
215 inserting the phrase “24 hours” in its place.

216 (i) Section 1006 (D.C. Official Code § 7-2510.06) is amended as follows:

217 (1) Subsection (c) is amended by striking the phrase “15 business days” and  
218 inserting the phrase “21 days” in its place.

219 (2) Subsection (d)(4) is amended by striking the phrase “firearm by” and inserting  
220 the phrase “firearm or other weapon by” in its place.

221 (j) Section 1007(a) (D.C. Official Code § 7-2510.07(a)) is repealed.

222 (k) New sections 1007a, 1007b, 1007c, and 1007d are added to read as follows:

223 “Sec. 1007a. Nature and issuance of search warrants.

224 “(a) If the court issues a final extreme risk protection order pursuant to section 1003, issues  
225 an ex parte extreme risk protection order pursuant to section 1004, or renews a final extreme risk  
226 protection order pursuant to section 1006, the court may issue an accompanying search warrant.  
227 The search warrant may authorize a search to be conducted anywhere in the District of Columbia  
228 and shall be executed pursuant to its terms.

229 “(b) A search warrant issued under this section may direct a search of any or all of the  
230 following:

231 “(1) One or more designated or described places or premises;

232 “(2) One or more designated or described vehicles;

233 “(3) One or more designated or described physical objects; or

234 “(4) The respondent.

235 “(c) The search warrant shall authorize the search for, and seizure of, any firearms,  
236 ammunition, registration certificates, licenses to carry a concealed pistol, or dealer’s licenses that  
237 the respondent is prohibited from having possession or control of, purchasing, or receiving  
238 pursuant to the terms of an extreme risk protection order issued or renewed under this title.

239 “(d) A search warrant issued under section 1007a may be addressed to a specific law  
240 enforcement officer or to any classification of officers of the Metropolitan Police Department of

241 the District of Columbia or other agency authorized to make arrests or execute process in the  
242 District of Columbia.

243 “(e) A search warrant issued under section 1007a shall contain:

244 “(1) The name of the issuing court, the name and signature of the issuing judge, and  
245 the date of issuance;

246 “(2) If the search warrant is addressed to a specific officer, the name of that officer,  
247 otherwise, the classifications of officers to whom the warrant is addressed;

248 “(3) A designation of the premises, vehicles, objects, or persons to be searched,  
249 sufficient for certainty of identification;

250 “(4) A description of the property whose seizure is the object of the search warrant;

251 “(5) A direction that the search warrant be executed between 6 a.m. and 9:00 p.m.  
252 or, where the court has found cause therefor, including one of the grounds set forth in section  
253 1007b(c), an authorization for execution at any time of day or night; and

254 “(6) A direction that the search warrant and an inventory of any property seized  
255 pursuant thereto be returned to the court within 72 hours after its execution.

256 “Sec. 1007b. Time of execution of search warrants.

257 “(a) A search warrant issued under section 1007a shall not be executed after the expiration  
258 of the extreme risk protection order it accompanies, or after 10 days from the date the warrant was  
259 issued, whichever is earlier.

260           “(b) The search warrant shall be returned to the court after its execution or expiration in  
261 accordance with section 1007a(e)(6).

262           “(c) A search warrant issued under section 1007a may be executed on any day of the week  
263 and, in the absence of express authorization in the warrant pursuant to subsection (c) of this section,  
264 shall be executed only between 6 a.m. and 9:00 p.m..

265           “(d) If the court finds that there is probable cause to believe that the search warrant cannot  
266 be executed between 6 a.m. and 9:00 p.m., the property sought is likely to be removed or destroyed  
267 if not seized forthwith, or the property sought is not likely to be found except at certain times or in  
268 certain circumstances, the court may include in the search warrant an authorization for execution  
269 at any time of day or night.

270           “Sec. 1007c. Execution of search warrants.

271           “(a) An officer executing a search warrant issued under section 1007a directing a search of  
272 a dwelling house or other building or a vehicle shall execute that search warrant in accordance  
273 with 18 U.S.C. § 3109.

274           “(b) An officer executing a search warrant issued under section 1007a directing a search of  
275 a person shall give, or make reasonable effort to give, notice of his identity and purpose to the  
276 person, and, if such person thereafter resists or refuses to permit the search, such person shall be  
277 subject to arrest by such officer pursuant to D.C. Official Code § 23-581(a) for violation of section  
278 432a of the Revised Statutes of the District of Columbia (D.C. Official Code § 22-405.01), or other  
279 applicable provision of law.

280           “(c)(1) An officer or agent executing a search warrant issued under section 1007a shall  
281 write and subscribe an inventory setting forth the time of the execution of the search warrant and  
282 the property seized under it.

283           “(2) If the search is of a person, a copy of the search warrant and of the return shall  
284 be given to that person.

285           “(3) If the search is of a place, vehicle, or object, a copy of the search warrant and  
286 of the return shall be given to the owner thereof or, if the owner is not present, to an occupant,  
287 custodian, or other person present. If no person is present, the officer shall post a copy of the  
288 warrant and of the return upon the premises, vehicle, or object searched.

289           “(d) A copy of the search warrant shall be filed with the court on the next court day after  
290 its execution, together with a copy of the return.

291           “(e) An officer executing a search warrant issued under section 1007a directing a search of  
292 premises or a vehicle may search any person therein to the extent reasonably necessary to:

293           “(1) Protect himself or others from the use of any weapon which may be concealed  
294 upon the person; or

295           “(2) Find property enumerated in the warrant which may be concealed upon the  
296 person.

297           “Sec. 1007d. Disposition of property.

298           “(a) A law enforcement officer or a designated civilian employee of the Metropolitan  
299 Police Department who seizes property in the execution of a search warrant issued under section  
300 1007a shall cause it to be safely kept until the property is returned to:

301                   “(1) The respondent, upon the expiration of the extreme risk protection order that  
302 the search warrant accompanied; or

303                   “(2) A lawful owner, other than the respondent, claiming title to the property  
304 pursuant to section 1007(d).

305           “(b) Nothing in subsection (a) of this section shall be construed to require the Metropolitan  
306 Police Department to release property seized pursuant to a warrant to a person who did not legally  
307 possess the property at the time it was taken.

308           “(c) No property seized shall be released or destroyed except in accordance with law and  
309 upon order of a court or of the United States Attorney for the District of Columbia or the Office of  
310 the Attorney General.”.

311           (1) Section 1008 (D.C. Official Code § 7-2510.08) is amended as follows:

312                   (1) Subsection (a) is amended by striking the phrase “order in in effect” and  
313 inserting the phrase “order is in effect” in its place.

314                   (2) Subsection (c)(4) is amended by striking the phrase “firearm by” and inserting  
315 “firearm or other weapon by” in its place.

316                   (3) Subsection (f) is amended as follows:

317                           (A) Paragraph (1) is amended as follows:

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318 (i) Strike the phrase “upon the petitioner” and insert the phrase  
319 “upon the petitioner and respondent” in its place.

320 (ii) A new paragraph (1A) is added to read as follows:

321 “(1A) If the petitioner or respondent was personally served in court when the  
322 motion to terminate an extreme risk protection order was granted, the personal service requirement  
323 of paragraph (1) of this subsection shall be waived with respect to the party served in court.”.

324 (B) Paragraph (2) is amended as follows:

325 (i) Strike the phrase “next business day” and insert the phrase “next  
326 day” in its place.

327 (ii) Strike the phrase “the respondent” and insert the phrase “the  
328 petitioner” in its place.

329 (C) Paragraph (3) is amended by striking the phrase “5 business days” and  
330 inserting the phrase “7 days” in its place.

331 (D) Paragraph (4) is amended by striking the phrase “one business day” and  
332 inserting the phrase “24 hours” in its place.

333 (m) Section 1010 (D.C. Official Code § 7-2510.10) is amended as follows:

334 (1) Subsection (a)(2) is amended by striking the phrase “available to any” and  
335 inserting the phrase “available to the Superior Court for the District of Columbia, the Office of the  
336 Attorney General, and any” in its place.

337 (2) Subsection (b) is amended by striking the phrase “Superior Court of the District  
338 of Columbia” and inserting the phrase “Mayor, or the Mayor’s designee,” in its place.

339 Sec. 5. Section 501 of the Homeland Security, Risk Reduction, and Preparedness  
340 Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 22-  
341 4251), is amended as follows:

342 (a) Subsection (b)(1) is amended by striking the phrase “following entities” and inserting  
343 the phrase “following entities, of which one-third shall constitute a quorum” in its place.

344 (b) Subsection (c) is amended by striking the phrase “June 1, 2019” and inserting the phrase  
345 “June 1, 2020” in its place.

346 Sec. 6. Section 5(a) of the Act to Regulate Public Conduct on Public Passenger Vehicles,  
347 effective September 23, 1975 (D.C. Law 1-18; D.C. Official Code § 35-254(a)), is amended to  
348 read as follows:

349 “(a)(1) Except as provided in subsection (b)(1) of this section, a violation of section 2(b)  
350 or section 3 shall be punishable by a civil fine of not more than \$50.

351 “(2)(A) Violations penalized under this subsection shall be adjudicated by the  
352 Office of Administrative Hearings in accordance with Title II of the Marijuana Possession  
353 Decriminalization Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C.  
354 Official Code § 48-1211 et seq.); provided, that a person issued a notice of infraction shall not be  
355 assessed any additional penalties other than the civil fine for the violation, including the penalties  
356 described in sections 202(e) and 203(d) of the Marijuana Possession Decriminalization

357 Amendment Act of 2014, effective July 17, 2014 (D.C. Law 20-126; D.C. Official Code §§ 48-  
358 1212(e) and 48-1213(d)).

359                   “(B) The Office of Administrative Hearings, pursuant to Title I of the  
360 District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204;  
361 D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this paragraph.

362                   “(3) Individuals authorized to issue notices of infractions for the violations  
363 penalized under this subsection include any police officer with authority to make arrests within the  
364 District, including members of the Metro Transit Police Department.”.

365                   Sec. 7. Fiscal impact statement.

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

369                   Sec. 8. Effective date.

370                   (a) This act shall take effect following approval by the Mayor (or in the event of veto by  
371 the Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
372 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,  
373 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
374 Columbia Register.

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