

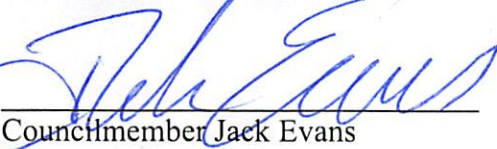


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2 Chairman Phil Mendelson

  
Councilmember Charles Allen

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6 Councilmember Anita Bonds


  
Councilmember Mary M. Cheh

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10 Councilmember Jack Evans

  
Councilmember David Grosso

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14 Councilmember Brianne Nadeau

  
Councilmember Brandon T. Todd

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18 Councilmember Robert C. White, Jr.

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22 A BILL  
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27 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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32 To amend Title 16 of the District of Columbia Official Code to make civil protection orders only  
33 available to intimate partners, household members, family members, and victims of sexual  
34 assault and abuse or sex trafficking; make the inclusion of animal abuse consistent; expand  
35 the ability of minors ages 12 to 16 to file civil protection orders; allow the court to extend  
36 temporary protection orders in increments up to 28 days for good cause or for a longer  
37 period with the consent of the parties; clarify the relief available for firearms and animal  
38 protections; modify the duration of civil protection orders; establish a dedicated unit in the  
39 Metropolitan Police Department to serve process in civil protection order cases; and create  
40 new anti-stalking orders.

41  
42 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
43 act may be cited as the "Intrafamily Offenses and Anti-Stalking Orders Amendment Act of 2018".

44 Sec. 2. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Chapter 10 is amended as follows:

(1) Section 16-1001 is amended as follows:

(A) New paragraphs (5A) and (5B) are added to read as follows:

“(5A) “Family member” means a person to whom one is related by blood, adoption, legal custody, marriage, or domestic partnership, or is the child of an intimate partner.

“(5B) “Household member” means a person with whom, in the past year, one has shared both a mutual residence and a close relationship rendering application of the statute appropriate. “Household member” does not include persons related solely by a landlord and tenant relationship.

(B) Paragraphs (6) and (7) are repealed.

(C) A new paragraph (6A) is added to read as follows:

“(6A) “Intimate partner” means a person to whom one is or was married; with whom one is or was in a domestic partnership; with whom one has a child in common; or with whom one is, was, or is seeking to be in a romantic, dating, or sexual relationship.”.

(D) Paragraph (8) is amended to read as follows:

“(8) “Intrafamily offense” means:

“(A) An act punishable as a criminal offense committed or threatened to be committed by a person against an intimate partner, a household member, or a family member; or

“(B) An act punishable as cruelty to animals as defined in sections 1 and 2 of Chapter 106 of the Acts of the Legislative Assembly, approved August 23, 1871 (D.C. Official Code §§ 22-1001 and 22-1002), committed or threatened to be committed by a person against an animal that belongs to or is in the household of an intimate partner or family member.”.

(E) Paragraph (10) is amended by striking the phrase “an Associate Judge,” and inserting the phrase “an Associate Judge, a Senior Judge,” in its place.

68 (F) Paragraph (12) is amended to read as follows:

69 “(12) “Petitioner” means any person who files, or for whom is filed, a petition for civil  
70 protection under this subchapter.”.

71 (2) Section 16-1003 is amended to read as follows:

72 “§ 16-1003. Petition for civil protection; minors; Attorney General.”.

73 “(a) A petitioner may file a petition for civil protection in the Domestic Violence Unit  
74 against a respondent who has allegedly:

75 “(1) Committed or threatened to commit an intrafamily offense against the  
76 petitioner;

77 “(2) Committed or threatened to commit sexual assault or sexual abuse against the  
78 petitioner, regardless of the parties’ relationship; or

79 “(3) Used coercion to cause the petitioner to engage in a commercial sex act as  
80 defined by section 101(4) of the Prohibition Against Human Trafficking Amendment Act of 2010,  
81 effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)).

82 “(b) A minor’s parent, guardian, custodian, or other appropriate adult may file a petition  
83 for civil protection on the minor’s behalf. In addition, a minor may file a petition for civil  
84 protection as follows:

85 “(1) A minor who is 16 years of age or older may file a petition for civil protection  
86 on the minor’s own behalf;

87 “(2) A minor who is at least 12 but less than 16 years of age and alleges an  
88 intrafamily offense by an intimate partner or alleges a sexual assault or sexual abuse by a  
89 respondent who does not have a significant relationship to the minor within the meaning of section  
90 101(10) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C.

Official Code § 22-3001(10)), may file a petition for civil protection and participate in a hearing to seek a temporary protection order without a parent, guardian, custodian, or other appropriate adult acting on the minor's behalf. Under these circumstances, the court may appoint an attorney for the minor in accordance with § 16-1005(a-1)(4), if necessary, and if doing so will not unduly delay the issuance or denial of the temporary protection order;

“(3) A minor who is at least 12 but less than 16 years of age and alleges an intrafamily offense by a family member or alleges a sexual assault or sexual abuse by a respondent who has a significant relationship to the minor within the meaning of section 101(10) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(10)), may petition for civil protection only if the minor's parent, guardian, custodian, or other appropriate adult files the petition on the minor's behalf; and

“(4) A minor who is less than 12 years of age may petition for civil protection only if the minor's parent, guardian, custodian, or other appropriate adult files the petition on the minor's behalf.

“(c) A custodial parent, guardian, custodian, or other appropriate adult of a minor may not file a petition for civil protection against the minor.

“(d) The Attorney General may provide individual legal representation to a petitioner, or person authorized by this section to act on a petitioner's behalf, who files a petition in accordance with subsection (a) of this section. Whenever the Attorney General represents a petitioner under subsection (a) of this section, the representation shall continue until the civil protection order terminates or the Attorney General withdraws his or her appearance, whichever is earlier.

“(e) If a petitioner is unable to file a petition on the petitioner's own behalf or with the assistance of a parent, guardian, custodian, or other appropriate adult in accordance with

subsection (a) of this section, the Attorney General may file a petition for civil protection on the petitioner's behalf at the request of the petitioner, the petitioner's representative, or a government agency. When proceeding on a petition filed under this subsection, the Attorney General represents the interests of the District of Columbia.”.

(3) Section 16-1004 is amended as follows:

(A) The section heading is amended by striking the phrase “notice; temporary order.” and inserting the phrase “temporary protection order.” in its place.

(B) A new subsection (a-1) is added to read as follows:

“(a-1) A request for a temporary protection order may be heard ex parte and shall be granted or denied after a hearing held on the same day that the petition is filed with the court. If the request is made too late in the day to permit effective review, the order shall be granted or denied after a hearing held on the next day of judicial business.”.

(C) Subsection (b) is amended to read as follows:

“(b) If, after a hearing on a request for a temporary protection order, the judicial officer finds that the safety or welfare of the petitioner, petitioner's household member, petitioner's animal, or an animal in petitioner's household is immediately endangered by the respondent, the judicial officer may issue, ex parte, a temporary protection order.

“(1) A temporary protection order shall remain in effect for an initial period not to exceed 14 days; provided, that if the last day falls on a Saturday, Sunday, a day observed as a holiday by the court, or a day on which weather or other conditions cause the court to be closed, the temporary protection order shall remain in effect until the end of the next day on which the court is open.

“(2) The court may extend a temporary protection order as necessary to complete service and the hearing on the petition:

“(A) In 14-day increments;

“(B) In increments up to 28 days for good cause; or

“(C) For a longer period with the consent of both parties.

“(3) The court may modify or terminate a temporary protection order.

“(4) If a respondent fails to appear for a hearing on a petition for civil protection after having been served with notice of the hearing, a petition, and a temporary protection order in accordance with the Rules of the Superior Court of the District of Columbia, and the court enters a civil protection order in accordance with section 16-1005, the temporary protection order shall remain in effect until the respondent is served with the civil protection order or the civil protection order expires, whichever occurs first.”.

(D) Subsection (c) is amended to read as follows:

(i) Paragraph (1) is amended by striking the word “next” and inserting the word “first” in its place.

(ii) Paragraph (2) is amended by striking the word “will” and inserting the word “shall” in its place.

(E) A new subsection (c-1) is added to read as follows:

“(c-1) A temporary protection order may include any of the relief set forth in section 16-1005.”.

(F) Subsections (d) and (e) are repealed.

(4) Section 16-1005 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “section 16-1004” and inserting the phrase “section 16-1007” in its place.

(B) Subsection (a-1)(1) is amended by striking the phrase “section 16-1003(c)” and inserting the phrase “section 16-1003(d)” in its place.

(C) Subsection (c) is amended as follows:

(i) By striking the phrase “against the petitioner or against petitioner’s animal or an animal in petitioner’s household,” and inserting the phrase “against the petitioner, the petitioner’s animal, or an animal in the petitioner’s household, or after receiving the parties’ consent,” in its place.

(ii) Paragraph (1) is amended by striking the word “protected” and inserting the word “specified” in its place.

(iii) Paragraph (2) is amended by striking the word “protected” and inserting the word “specified” in its place.

(iv) Paragraphs (6) and (7) are amended to read as follows:

“(6) Awards temporary custody of a minor child or children of the parties; provided, that if, after a contested hearing, the judicial officer finds by a preponderance of evidence that a contestant for custody has committed an intrafamily offense, any determination that custody is to be granted to the contestant who has committed the intrafamily offense must be supported by a written statement by the judicial officer specifying factors and findings which support that determination;

“(7) Awards visitation rights with appropriate restrictions to protect the safety of the petitioner; provided, that in determining visitation arrangements after a contested hearing, if the judicial officer finds by a preponderance of the evidence that the parent seeking visitation has

committed an intrafamily offense, the judicial officer may only award visitation if the judicial officer finds that the child and custodial parent can be adequately protected from harm inflicted by the parent who has committed the intrafamily offense and issues a written statement specifying factors and findings that support the determination. The parent who has committed the intrafamily offense has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development;”.

(v) Paragraphs (10) and (10A) are amended to read as follows:

“(10) Directs the respondent to relinquish possession of any firearms or ammunition and not to own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protection order is in effect;

“(10A) In connection with an animal owned, possessed, leased, kept, or held by the petitioner, or residing in the residence or household of the petitioner:

“(A) Directs the care, custody, or control of the animal; and

“(B) Orders the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.”.

(4) Subsection (c-1) is repealed.

(D) Subsection (d) is amended to read as follows:

“(d) A protection order issued pursuant to this section shall remain in effect for an initial period not to exceed 2 years.”.

(E) A new subsection (d-1) is added to read as follows:

“(d-1) A judicial officer may, upon motion of any party to the original proceeding, extend, vacate, or modify an order for good cause shown. A finding that an order has been violated is not



necessary for a finding of good cause to modify or extend an order. The judicial officer may extend an order for the period of time the judicial officer deems appropriate, but if that period is longer than 2 years, the judicial officer must find:

“(1) That the respondent has violated the civil protection order;

“(2) That the petitioner has previously obtained a civil protection order against the same respondent; or

“(3) Other compelling circumstances related to the petitioner’s safety or well-being.”.

(F) Subsection (f) is amended by striking the phrase “punishable as contempt” and inserting the phrase “punishable as criminal contempt” in its place.

(G) Subsection (i) is amended by striking the phrase “Orders entered” and inserting the phrase “Violations of protection orders entered” in its place.

(5) A new section 16-1007 is added to read as follows:

“§ 16-1007. Notice to parties.

“(a) Pursuant to the Rules of the Superior Court of the District of Columbia, the respondent, and in cases where the respondent is a minor, the respondent’s custodial parent, guardian, or custodian, shall be served with notice of the hearing and an order to appear, a copy of the petition, and a temporary protection order, if entered. The court may also cause notice to be served on others whose presence at the hearing is necessary to the proper disposition of the matter.

“(b) If a minor has filed a petition for civil protection without a parent, guardian, or custodian, and if the minor is residing with a parent, guardian, or custodian, the court shall send a copy of any order issued pursuant to section 16-1004(b) and notice of the hearing to that parent, guardian, or custodian, unless, in the discretion of the court, notification of that parent, guardian,

or custodian would be contrary to the best interests of the minor. If the court does not send notice to the parent, guardian, or custodian with whom the minor resides, the court may, in its discretion, send notice to any other parent, guardian, custodian, or other appropriate adult.

“(c) The notice of hearing shall notify the respondent that if the respondent does not attend the hearing, the court may issue an order against the respondent that could last up to 2 years.

“(d) A respondent is deemed to have been served and no additional proof of service is required for enforcement of an order if the respondent is present before the court when the order is issued or if the respondent is served with the order in open court.

“(e) At the request of the petitioner, the Metropolitan Police Department shall attempt to serve civil process in any case filed under this subchapter that has an address for service in the District of Columbia. A special unit that consists of at least 6 officers is established for the exclusive purpose of performing these duties.”.

(b) A new Chapter 10A is added to read as follows:

“Chapter 10A. Anti-Stalking Orders.

“16-1061. Definitions.

“16-1062. Complaint; interim order.

“16-1063. Hearing; evidence; anti-stalking order.

“16-1064. Notice to defendant.

“16-1065. Continuances.”.

“Chapter 10A. Anti-Stalking Orders.

“§ 16-1061. Definitions.

“For the purposes of this chapter, the term:

249                   “(1) “Civil Division” means the Civil Division of the Superior Court of the District  
250 of Columbia.

251                   “(2) “Court” means the Superior Court of the District of Columbia.

252                   “(3) “Defendant” means any person against whom a complaint for an anti-stalking  
253 order is filed under this chapter.

254                   “(4) “Judicial officer” means the Chief Judge, a Senior Judge, an Associate Judge,  
255 or a Magistrate Judge of the court.

256                   “(5) “Minor” means a person under 18 years of age.

257                   “(6) “Plaintiff” means any person who files a complaint for an anti-stalking order  
258 under this chapter.

259                   “(7) “Stalking” or “stalked” means any course of conduct that is prohibited by  
260 section 503 of the Omnibus Public Safety and Justice Amendment Act of 2009, effective  
261 December 10, 2009 (D.C. Law 18-88; D.C. Official Code § 22-3133).”.

262                   “§ 16-1062. Complaint; notice; interim order.

263                   “(a) A person may file a complaint for an anti-stalking order and a request for an interim  
264 anti-stalking order in the Civil Division against another person who, within 90 days prior to the  
265 date of filing, has allegedly stalked that person. A minor’s parent, guardian, custodian, or other  
266 appropriate adult may file a complaint for an anti-stalking order on the minor’s behalf. A minor  
267 who is 16 years of age or older may file a complaint for an anti-stalking order on the minor’s own  
268 behalf.

269                   “(b) Upon a filing of a complaint for an anti-stalking order, the Civil Division shall set the  
270 matter for hearing. If the complaint includes a request for an interim anti-stalking order and the

271 court grants the interim anti-stalking order, the matter shall be set for hearing on the final anti-  
272 stalking order within 14 days. Otherwise, the matter must be set within 21 days.

273 “(c) A request for an interim anti-stalking order may be heard ex parte and shall be granted  
274 or denied after a hearing held on the same day that the complaint is filed with the court. If the  
275 complaint is filed too late in the day to permit effective review, the order shall be granted or denied  
276 after a hearing held on the next day of judicial business.

277 “(d) If, after a hearing on a request for an interim anti-stalking order, the judicial officer  
278 finds that the safety or welfare of the plaintiff, plaintiff’s household member, plaintiff’s animal, or  
279 an animal in plaintiff’s household is immediately endangered by the defendant, the judicial officer  
280 may issue, ex parte, an interim anti-stalking order.

281 “(1) An interim anti-stalking order shall remain in effect for an initial period not to  
282 exceed 14 days; provided, that if the last day falls on a Saturday, Sunday, a day observed as a  
283 holiday by the court, or a day on which weather or other conditions cause the court to be closed,  
284 the interim anti-stalking order shall remain in effect until the end of the next day on which the  
285 court is open.

286 “(2) The court may extend an interim anti-stalking order as necessary to complete  
287 service and the hearing on the complaint:

288 “(A) In 14-day increments;

289 “(B) In increments up to 28 days for good cause; or

290 “(C) For a longer period with the consent of both parties.

291 “(3) The court may modify or terminate an interim anti-stalking order.

292 “(4) If a defendant fails to appear for a hearing on a complaint for an anti-stalking  
293 order after having been served with a summons and an interim anti-stalking order in accordance

with the Rules of the Superior Court of the District of Columbia, and the court enters a final anti-stalking order in accordance with § 16-1063, the interim anti-stalking order shall remain in effect until the defendant is served with the final anti-stalking order or the final anti-stalking order expires, whichever occurs first.

“(e) An interim anti-stalking order issued pursuant to this section shall include a notice explaining that:

“(1) If the day on which the interim anti-stalking order is set to expire falls on a Saturday, Sunday, a day observed as a holiday by the court, or a day on which weather or other conditions cause the court to be closed, the interim anti-stalking order shall remain in effect until the end of the next day on which the court is open; and

“(2) If the defendant fails to appear for a hearing on a complaint for an anti-stalking order, after having been served, and a final anti-stalking order is entered, the interim anti-stalking order shall remain in effect until the defendant is served with the final anti-stalking order or the final anti-stalking order expires, whichever occurs first.

“(f) An interim anti-stalking order may include any of the relief set forth in § 16-1063.

“§ 16-1063. Hearing; evidence; anti-stalking order.

“(a) Individuals served with a summons in accordance with § 16-1064 shall appear at the hearing.

“(b) If, after a hearing, the judicial officer finds by a preponderance of the evidence that within 90 days prior to the complaint being filed, the defendant stalked the plaintiff, or after receiving the parties’ consent, a judicial officer may issue a final anti-stalking order that:

“(1) Directs the defendant to refrain from committing or threatening to commit criminal offenses against the plaintiff and other specified persons;

317                   “(2) Requires the defendant to stay away from or have no contact with the plaintiff  
318 and any other specified persons or locations;

319                   “(3) Directs the defendant to relinquish possession or use of certain personal  
320 property owned jointly by the parties or by the plaintiff individually;

321                   “(4) Awards costs and attorney fees;

322                   “(5) Orders the Metropolitan Police Department to take such action as the judicial  
323 officer deems necessary to enforce its orders;

324                   “(6) Directs the defendant to relinquish possession of any firearms or ammunition  
325 and not to own, possess, purchase, receive, or attempt to purchase or receive a firearm or  
326 ammunition while the anti-stalking order is in effect;

327                   “(7) In connection with an animal owned, possessed, leased, kept, or held by the  
328 plaintiff, or residing in the residence or household of the plaintiff:

329                         “(A) Directs the care, custody, or control of the animal; and

330                         “(B) Orders the defendant to stay away from the animal and refrain from  
331 taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming,  
332 or otherwise disposing of the animal;

333                   “(8) Directs the defendant to perform or refrain from other actions as may be  
334 appropriate to the effective resolution of the matter; or

335                   “(9) Combines 2 or more of the preceding provisions.

336                   “(c) An anti-stalking order issued pursuant to this section shall remain in effect for an initial  
337 period not to exceed 2 years.

338                   “(d) A judicial officer may, upon motion of any party to the original proceeding, extend,  
339 vacate, or modify an order for good cause shown. A finding that an order has been violated is not

necessary for a finding of good cause to modify or extend an order. The judicial officer may extend an order for the period of time the judicial officer deems appropriate, but if that period is longer than 2 years, the judicial officer must find:

“(1) That the defendant has violated the anti-stalking order;

“(2) That the plaintiff has previously obtained an anti-stalking order against the same defendant; or

“(3) Other compelling circumstances related to plaintiff’s safety or well-being.

“(e) Any final order issued pursuant to this section and any order granting or denying a motion to extend, modify, or vacate such order is appealable.

“(f) Violation of any interim or final order issued under this chapter or defendant’s failure to appear as required by subsection (a) of this section shall be punishable as contempt. Upon conviction, criminal contempt shall be punished by a fine of not more than the amount set forth in the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisonment for not more than 180 days, or both.

“(g) Enforcement proceedings for an offense under subsection (f) of this section in which the defendant is a child as defined by section 1(3) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 16-2301(3)), shall be governed by subchapter I of Chapter 23 of this title.

“(h) For purposes of establishing a violation under subsection (g) of this section, an oral or written statement made by a person located outside the District of Columbia to a person located in the District of Columbia by means of telecommunication, mail, or any other method of communication will be deemed to be made in the District of Columbia.

362 “(i) Violations of anti-stalking orders entered with the consent of the defendant but without  
363 an admission that the conduct occurred shall be punishable under subsection (f) or (g) of this  
364 section.

365 “§ 16-1064. Notice to defendant.

366 “(a) Pursuant to the Rules of the Superior Court of the District of Columbia, the defendant  
367 shall be served with the summons, a copy of the complaint, and an interim anti-stalking order, if  
368 entered.

369 “(b) A summons under this section shall notify the defendant that if the defendant does not  
370 attend the hearing, the court may issue an order against the defendant that could last up to 2 years.

371 “(c) A defendant is deemed to have been served and no additional proof of service is  
372 required for enforcement of an order if the defendant is present before the court when the order is  
373 issued or if the defendant is served with the order in open court.

374 “(d) At the request of the plaintiff, the Metropolitan Police Department shall attempt to  
375 serve civil process in any case filed under this chapter that has an address for service in the District  
376 of Columbia.

377 “§ 16-1065. Continuances.

378 “(a) Either party may request a continuance of the hearing, which the court shall grant on  
379 a showing of good cause. The request may be made in writing before or at the hearing or orally at  
380 the hearing. The court may also grant a continuance on its own motion.

381 “(b) If the court grants a continuance, any interim anti-stalking order that has been granted  
382 shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court.  
383 In granting a continuance, the court may modify or terminate an interim anti-stalking order.”.

384 Sec. 3. Fiscal impact statement.



385           The Council adopts the fiscal impact statement in the committee report as the fiscal impact  
386 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
387 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

388           Sec. 4. Effective date.

389           This act shall take effect following approval by the Mayor (or in the event of veto by the  
390 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
391 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,  
392 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
393 Columbia Register.