



February 22, 2023

The Honorable Chuck Schumer
United States Senate
Washington, D.C., 20510

The Honorable Mitch McConnell
United States Senate
Washington, D.C., 20510

Cc:

Chairman Dick Durbin
Judiciary Committee
United States Senate
Washington, D.C., 20510

Ranking Member Lindsey Graham
Judiciary Committee
United States Senate
Washington, D.C., 20510

Representative Eleanor Holmes Norton
United States House of Representatives
Washington, D.C., 20515

Re: Oppose efforts to obstruct the District of Columbia's Revised Criminal Code Act

Dear Majority Leader Schumer and Minority Leader McConnell:

On behalf of the undersigned organizations, we write to express our opposition to efforts to obstruct the District of Columbia's Revised Criminal Code Act, including any resolution of disapproval¹ or budget rider. The Revised Criminal Code Act of 2022 (RCCA) is the product of 16 years of research, an expert commission, 51 public meetings, extensive public feedback, and robust negotiation. As such, the D.C. Council voted unanimously to pass the RCCA and the RCCA is supported by 83% of District voters.² Opponents of the RCCA, however, are spreading misinformation about the RCCA's impact in a blatant attempt to erode home rule and trample on the rights of District residents. We urge you to oppose these attacks on the RCCA and vote against any resolution of disapproval.

Washingtonians know best how to address criminal justice policies in their community and deserve the right to determine their own laws. Local leaders are better positioned and retain more expertise to address safety and justice issues in the District than Congress. Federal overstepping to interfere with RCCA's implementation, which does not go into effect until 2025, would be inappropriate and misguided. The D.C. Council can continue to amend the RCCA, if desired, to address stakeholder concerns.

¹ The House of Representatives passed H.J. Res. 26 "Disapproving the action of the District of Columbia Council in approving the Revised Criminal Code Act of 2022" on February 9, 2023 and it was referred to the Senate Committee on Homeland Security and Governmental Affairs on February 13, 2023. Senator Bill Hagerty and 44 other Republican senators introduced its Senate companion, S.J. Res. 12, on February 9, 2023.

² [District Voters Overwhelmingly Support Revised Criminal Code Act](#) (2022), DC Justice Lab and FWD.us.

The RCCA is a long-overdue modernization of the D.C. Criminal Code. Since the 1960s, dozens of states have embarked on criminal code reforms, removing obsolete provisions, ensuring sentences are proportionate and equitable, and simplifying overlapping charges. The RCCA follows that trend – the District last comprehensively revised the criminal code in 1901. A revision to reflect best practices in sentencing and criminological evidence is necessary to ensure justice, fairness, and safety in the District. By ensuring the statutes are clear and constitutional, the RCCA makes the law easier for police officers, attorneys, and judges to understand and administer.

To arrive at that revision, the District engaged in a thorough, transparent, and evidence-based process. The D.C. Council created a Criminal Code Reform Commission (CCRC) which prepared recommendations based on a review of recent code reforms in other jurisdictions, current sentencing practices in D.C. Superior Court, court data, recommendations by the American Law Institute, social science, and the current sentencing guidelines.³ The CCRC Advisory Group, whose five voting members included representatives from the Office of the U.S. Attorney for the District of Columbia, the Office of the Attorney General for the District of Columbia, the Public Defender Service for the District of Columbia, and two professors from Georgetown University Law Center and George Washington University Law School, unanimously voted to approve the recommendations. The D.C. Council also made numerous changes to the introduced version of the bill, reflecting negotiations with the Metropolitan Police Department, the U.S. Attorney’s Office, the Office of the Attorney General, the Public Defender Service, D.C. Superior Court judges, and members of the community. As Mayor Bowser acknowledged in her January 4, 2023 letter to D.C. Council Chairman Phil Mendelson, there is “consensus agreement” on “95% of the bill.”⁴

The RCCA is a balanced bill – bringing the District in line with national sentencing norms by lengthening some sentences, reducing some maximums, and other reforms. The RCCA includes many modernizations, such as aligning D.C. with the majority of the country by creating the right to a jury trial for misdemeanors.⁵ The RCCA also lengthened sentences for several offenses and permits enhancements and stacking that can make the sentences much longer. The RCCA increases penalties for possession of assault rifles, ghost guns, and restricted explosive devices, to 4 years from 1 year under current law. It also creates a new offense, endangerment with a firearm, which criminalizes discharging a firearm in a public place, or in a manner that creates a substantial risk of death. Additionally, the RCCA reduced the statutory maximum for certain offenses, in order to improve proportionality and reflect current sentencing practices, which are typically well below the maximum. As such, the sentence maximum changes in the RCCA are not expected to lower sentences for serious crimes. For example, the RCCA’s 20-year maximum penalty for robbery is seven times higher than the median sentence imposed for robbery, and 11 years higher than the 97.5th percentile sentence imposed for

³ [Transmittal Letter to Mayor Bowser and DC Council](#) (Mar. 31, 2021). DC Criminal Code Reform Commission.

⁴ [Letter to Chairman Phil Mendelson](#) (Jan. 4, 2023). Mayor Muriel E. Bowser.

⁵ Currently, 35 states permit jury trials for virtually all criminal offenses. [First Draft of Report #51 – Jury Demandable Offenses](#) (Feb. 25, 2020). DC Criminal Code Reform Commission, at 7.

robbery.⁶ For robberies and carjackings, over 97.5% of sentences currently imposed by judges are lower than the maximum allowable penalty outlined in the RCCA.⁷

The people and leaders of the District support the RCCA. The RCCA is also backed by an abundance of research, data, and stakeholder feedback. Attempts by Congress to intervene are rooted in efforts to end home rule and falsehoods. Our organizations may not support the lengthening of sentences, but we recognize the need to update the D.C. Criminal Code and above all support the District's autonomy over its own laws as informed by the will of the people. We urge you to respect the will of Washingtonians and oppose all efforts, whether a resolution of disapproval or budget rider, to obstruct the RCCA.

Sincerely,

American Civil Liberties Union
American Civil Liberties Union of the District of Columbia
CAN-DO Foundation
Center for Disability Rights
Church of Scientology National Affairs Office
CURE (Citizens United for Rehabilitation of Errants)
DC Justice Lab
Dream.org
Drug Policy Alliance
Due Process Institute
Fair and Just Prosecution
FAMM
The Festival Center
FWD.us
Justice Policy Institute
ReThink Justice
The Leadership Conference on Civil and Human Rights
NAACP Legal Defense & Educational Fund, Inc.
National Association of Criminal Defense Lawyers
National Council for Incarcerated and Formerly Incarcerated Women and Girls
Neighbors for Justice
NETWORK Lobby for Catholic Social Justice
The Sentencing Project
The United Methodist Church General Board of Church and Society
Vera Institute of Justice
Who Speaks for Us?

⁶ [Advisory Group Memorandum #40: Statistics on District Adult Criminal Charges and Convictions](#) (Dec. 31, 2020), DC Criminal Code Reform Commission; [Appendix D to Advisory Group Memorandum #40](#) (2020), DC Criminal Code Reform Commission.

⁷ [Advisory Group Memorandum #40: Statistics on District Adult Criminal Charges and Convictions](#) (Dec. 31, 2020), DC Criminal Code Reform Commission; [Appendix D to Advisory Group Memorandum #40](#) (2020), DC Criminal Code Reform Commission.