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7 A BILL
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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15 Councilmembers Jim Graham and Tommy Wells introduced the following bill, which was
16 referred to the Committee on _____.
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18 To amend Title 16 of the District of Columbia Official Code to provide for the transfer of minor
19 defendants to the Family Court, include minor defendants transferred to the Family Court
20 in the definition of “child”, retain the Family Court’s jurisdiction over minors transferred
21 for criminal prosecution, require additional data collection by the Criminal Justice
22 Coordinating Council, and require that detention orders include instructions for how to
23 detain a defendant under the age of 18.
24

25 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
26 act may be cited as the “Youth Offender Accountability and Rehabilitation Act of 2014.”

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

28 (a) A new section 16-714 is added to read as follows:

29 “Sec. 16-714. Transfer of minor defendants to the Family Court.

30 “(a) A minor defendant who would have been considered a child at the time of the
31 alleged offense but for being charged by the United States attorney with murder, first degree
32 sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit
33 any such offense may move for transfer of jurisdiction to the Family Court at any time prior to
34 sentencing.

35 “(b) The court shall conduct a hearing on the transfer motion to determine
36 whether to transfer the defendant to the Family Court. The hearing shall be held no later than 30
37 days after the filing of the transfer motion, unless the prosecution, for good cause shown, or the

1 defendant moves for a continuance of no more than 30 days. The judge shall rule on the motion
2 no later than 10 days after the conclusion of the hearing on the motion.

3 “(c) The timelines in subsection (b) of this section may be extended on good
4 cause shown by the court.

5 “(d) The court shall transfer jurisdiction to the Family Court if it determines by a
6 preponderance of the evidence that there are reasonable prospects for rehabilitating the defendant
7 prior to his majority and it is in the interest of the public welfare to transfer the defendant to the
8 Family Court.

9 “(e) In making the determination in subsection (d) of this section, the court may
10 consider all factors it deems relevant, including:

11 “(1) The defendant’s age at the time of the offense;

12 “(2) The nature of the present offense and the extent and nature of the
13 defendant’s prior delinquency record;

14 “(3) The defendant’s alleged level of participation in the offense;

15 “(4) The development of the defendant’s maturity, self-control, and ability
16 to appreciate the risks and consequences of the alleged conduct;

17 “(5) The defendant’s family and community environment, including any
18 exposure to trauma and past or current involvement in the child welfare system;

19 “(6) The defendant’s intellectual capacity and mental condition;

20 “(7) The defendant’s capacity for rehabilitation;

21 “(8) The extent to which treatment or rehabilitative services have
22 previously been offered to the defendant through the child welfare or delinquency systems and
23 the defendant’s response to those services;

24 “(9) The techniques, facilities, and personnel for rehabilitation available to
25 the defendant were the case to remain in the Criminal Division and that would be available to the
26 defendant were the case to be transferred to the Family Court; and

27 “(10) The techniques, facilities, and personnel available for the
28 defendant’s education, including any special education needs, were the case to remain in the
29 Criminal Division and that would be available to the defendant were the case to be transferred to
30 the Family Court.

1 “(f)(1) In making a determination under this section, the court may order that a
2 study and written report relevant to the factors in subsection (e) be made. The report and all
3 social records that are to be made available to the judge at the transfer hearing shall be made
4 available to counsel for the defendant and to the prosecution at least 3 days prior to the hearing.

5 “(2) No statements made by the defendant in the course of this study may
6 be used against the defendant during the adjudication of his or her case.

7 “(g)(1) If the court grants the transfer motion, the court shall forthwith transfer the
8 defendant, together with all papers and documents connected with the defendant, to the Family
9 Court.

10 “(2) Upon transfer of the defendant to the Family Court, all applicable papers and
11 documents transferred with the defendant shall be made confidential and shall not be made open
12 to inspection, nor information from the records be divulged to unauthorized persons, pursuant to
13 and in accordance with §§ 16-2331 and 16-2332.

14 “(h) If the court denies the transfer motion, the denial shall be accompanied by a
15 written opinion that explains the court’s reasoning, including consideration of the factors
16 specified in paragraph (e) of this subsection.”.

17 (b) Section 16-2301(3) is amended to read as follows:

18 “(3)(A) The term "child" means an individual who is under 18 years of age,
19 except that the term "child" does not include an individual who is sixteen years of age or older
20 and -

21 “(i) Charged by the United States attorney with (I) murder, first
22 degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to
23 commit any such offense, or (II) an offense listed in clause (I) and any other offense properly
24 joinable with such an offense;

25 “(ii) Charged with an offense referred to in subparagraph (A)(I)
26 and convicted by plea or verdict of a lesser included offense; or

27 “(iii) Charged with a traffic offense.

28 “(B) For purposes of this subchapter the term "child" also includes a
29 person under the age of twenty-one who is charged with an offense referred to in subparagraph
30 (3)(A) committed before he attained the age of sixteen, or a delinquent act committed before he

1 attained the age of eighteen, or a minor whose case is transferred to the Family Court pursuant to
2 D.C. Official Code § 16-714.”.

3 (c) Section 16-2307(h) is amended to read as follows:

4 “(h)(1) Transfer of a child for criminal prosecution shall not terminate the
5 jurisdiction of the Family Court over the child with respect to any subsequent delinquency
6 petitions filed pursuant to D.C. Official Code § 16-2305. If the prosecution files a motion
7 pursuant to this section to transfer the child for criminal prosecution of a subsequent delinquent
8 act, prior transfers shall be a factor the Family Court considers in deciding the motion.

9 “(2) Jurisdiction of the Family Court over a child previously transferred
10 for criminal prosecution is restored if (A) the criminal prosecution is terminated other than by a
11 plea of guilty, a verdict of guilty, or a verdict of not guilty by reason of insanity, and (B) at the
12 time of the termination of the criminal prosecution no indictment or information has been filed
13 for criminal prosecution for an offense alleged to have been committed by the child subsequent
14 to transfer.”.

15 (d) Subsections (d) and (e) of section 16-2313 are amended to read as follows:

16 “(d) Except as provided in subsection (e), no individual under 18 years of age
17 may be detained in a jail or other facility for the detention of adults, unless convicted of a felony
18 in criminal court. The appropriate official of a jail or other facility for the detention of adults
19 shall inform the Superior Court immediately when an individual under the age of 18 years is
20 received there (other than by transfer provided in subsection (e)) and shall:

21 “(1) Deliver him to the Director of the Family Court Social Services
22 Division upon request; or

23 “(2) Transfer him to a detention facility described in subsection (b)(3).”.

24 “(e) An individual 16 or 17 years of age who is alleged to be delinquent or who is
25 the defendant in a criminal proceeding, and who is in detention, whose conduct constitutes a
26 menace to other children, and who cannot be controlled, may on order of the Family or Criminal
27 Division be transferred to a place of detention for adults, but shall be kept separate from adults
28 pursuant to federal standards at 28 C.F.R. § 115.14.”.

29 Sec. 3. District of Columbia Official Code § 22-4234 is amended as follows:

30 (a) Subsection (a) is amended by adding a new paragraph (6A) to read as follows:

1 “(6A) Collect data concerning the number of youth charged as adults pursuant to
2 § 16-2301(3)(A), transferred to the adult system pursuant to § 16-2307, and reverse transferred
3 from the adult system pursuant to § 16-714, including age, race, and ethnicity of defendants;
4 charged offense; adjudicated offense; and any other easily available demographic or case
5 information;”.

6 (b) Subsection (b) is amended by striking the word “subcommittees” and inserting the
7 phrase “subcommittees and the data collected pursuant to subsection (a)(6A) of this section” in
8 its place.

9 Sec. 4. Section 23-1322(g) of the District of Columbia Official Code is amended as
10 follows:

11 (a) Paragraph (3) is amended by striking the word “and”.

12 (b) Paragraph (4) is amended by striking the period and inserting the phrase “; and” in its
13 place.

14 (c) A new paragraph (5) is added to read as follows:

15 “(5) If the defendant is younger than 18 years of age, direct that the person be
16 detained separate from adults pursuant to the federal standards at 28 C.F.R. § 115.14.”.

17 Sec. 5. Fiscal impact statement.

18 The Council adopts the fiscal impact statement in the committee report as the fiscal
19 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
20 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

21 Sec. 6. Effective date.

22 This act shall take effect following approval by the Mayor (or in the event of veto by the
23 Mayor, action by the Council to override the veto), a 60-day period of Congressional review as
24 provided in provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved
25 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the
26 District of Columbia Register.