

1 _____
2 Councilmember Jim Graham

_____ Councilmember Vincent Bernard Orange, Sr.

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8 A BILL
9 _____

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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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14 At-large Councilmember Vincent Bernard Orange, Sr. introduced the following bill, which was
15 referred to the Committee on _____
16

17 To provide that the Council may adopt a resolution to reprimand or censure the Mayor and may,
18 by a 5/6 vote of its members, adopt a resolution to expel the Mayor; to amend the
19 Attorney General for the District of Columbia Clarification and Elected Term
20 Amendment Act of 2010 to provide that the Council may adopt a resolution to reprimand
21 or censure the Attorney General and may, by a 5/6 vote of its members, adopt a
22 resolution to expel the Attorney General; to amend the District of Columbia Home Rule
23 Act to provide for the expulsion of the Mayor and the Attorney General.
24

25 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
26 act may be cited as the “Mayor and Attorney General Reprimand, Censure and Expulsion
27 Amendment Act of 2013”.
28

29 TITLE I. REPRIMAND, CENSURE, AND EXPULSION OF MAYOR PROCEDURES.

30 Sec. 101. *Ad hoc* committees.

31 (a) An *ad hoc* committee (“committee”) shall be established for the purpose of
32 considering evidence of the Mayor’s violation of policy or law and to make recommendations for
33 further action. A committee shall be established by the request of 5 members of the Council, or
34 upon the censure of the Mayor by the Ethics Board.

35 (b) The committee shall be composed of 5 members appointed by the Chairman. If the
36 Chairman is the subject of a request or has been sanctioned by the Ethics Board within 12
37 months of the committee being created, the Chairman Pro Tempore shall select the members of

1 the committee. If the Chairman Pro Tempore is the subject of a request or has been sanctioned
2 by the Ethics Board within 12 months of the committee being created, the members of the
3 Council shall meet and appoint a member to convene a committee. The committee shall not
4 include the member making the request or a member who is the subject of a request or has been
5 sanctioned by the Ethics Board within 12 months of the committee being created. The
6 committee's proceedings may be conducted in executive session in accordance with section 504
7 of the Rules of the Council of the District of Columbia, Council Period 20 Resolution of 2013,
8 effective January 25, 2013 (Res. 20-1; 60 DCR 627), except that the committee's
9 recommendation for further action shall be made public.

10 (c) No penalty shall be imposed pursuant to sections 105 and 106 unless first
11 recommended by a committee.

12 Sec. 102. *Ad hoc* committee initiated by an Ethics Board censure.

13 (a) A committee shall be established by the Council within 72 hours of a censure of the
14 Mayor by the Ethics Board or as soon as practicable. A committee shall consider the findings of
15 the Ethics Board, conduct an investigation if warranted, and report its findings and penalty
16 recommendations, if any, to the Council within 45 days of being convened. The penalty
17 recommendations may include:

18 (1) Reprimand;

19 (2) Censure; or

20 (3) Expulsion.

21 (b) The Council shall meet to consider the recommendation within 7 days of receiving the
22 recommendation from the committee.

23 Sec. 103. *Ad hoc* committee by request.

1 (a) A request for reprimand, censure, or expulsion of the Mayor may be submitted to the
2 Secretary of the Council by 5 members of the Council. The request shall contain the specific
3 charges on which the proposed sanction is based.

4 (b) The Secretary shall deliver a copy of the request for a committee and the charges to
5 each member of the Council and to the Mayor at least 48 hours before the first meeting of the
6 committee at which the request will be considered.

7 (c) The committee's proceedings may be conducted in executive session in accordance
8 with section 504 of the Rules of the Council of the District of Columbia, Council Period 20
9 Resolution of 2013, effective January 25, 2013 (Res. 20-1; 60 DCR 627). The committee shall
10 permit testimony from the members making the request and the Mayor and shall determine
11 whether:

12 (1) Further investigation of the charges is required to determine if a hearing is
13 warranted;

14 (2) The matter should be set for a hearing; or

15 (3) No further action should be taken with respect to the request.

16 (d) If the committee determines that no further action should be taken with respect to the
17 request, the committee shall report that determination to the Council at its earliest opportunity. If
18 the committee determines that further investigation is required, the committee shall conduct an
19 investigation and report a summary of its proceedings and its findings, along with penalty
20 recommendations, if any, to the Council at its earliest opportunity. The penalty
21 recommendations, if any, may include:

22 (1) Reprimand;

23 (2) Censure; or

1 (3) Expulsion.

2 (e) If the committee does not report its recommendation and findings to the Council
3 within 90 calendar days of the receipt of request to convene the committee, the matter shall be
4 sent to the Council for its consideration.

5 (f) Upon receipt of the report of the committee, or at the expiration of the time for the
6 committee to report to the Council, the Chairman shall place the matter on the Council's agenda
7 to determine whether a hearing is warranted. If the Council decides to set the matter for a
8 hearing, the hearing shall be scheduled for no sooner than one week after the determination to
9 hear the matter. Written notice of the hearing shall be delivered in person to the Mayor or to the
10 Mayor's office at least 48 hours in advance of a scheduled hearing.

11 (g)(1) The hearing shall be conducted by the Chairman or, if the Chairman is the subject
12 of a hearing or has been sanctioned by the Ethics Board within 12 months of the hearing, the
13 Chairman Pro Tempore shall conduct the hearing. If the Chairman Pro Tempore is the subject of
14 a hearing or has been sanctioned by the Ethics Board within 12 months of the hearing, the
15 members of the Council shall meet and appoint a member to conduct the hearing. At the
16 hearing, the Mayor shall be given the opportunity to make an opening and a closing statement, to
17 call witnesses on his or her behalf, and to question his or her accusers. The Mayor may be
18 represented by a person of the Mayor's choice whether or not the person is an attorney at law and
19 may have that representative speak or question witnesses on the Mayor's behalf.

20 (2) The questioning or cross-examining of witnesses may be reasonably limited
21 by the chair of the hearing.

22 (3) Testimony shall be taken only from witnesses having direct knowledge of
23 facts or circumstances relevant to the specific charges under consideration.

1 (4) The rules of evidence and judicial procedure applicable in courts of law shall
2 not be applicable at this hearing, and the procedures shall be generally informal.

3 (h) Notwithstanding any other provision, the Chairman, pursuant to an authorizing
4 resolution, may appoint any person or a standing or special committee to perform an
5 investigation required by this section.

6 Sec. 104. Reprimand.

7 (a) A reprimand is a formal statement of the Council officially disapproving the conduct
8 of the Mayor. A reprimand shall be directed to the Mayor based on a particular action or set of
9 actions determined to be in violation of law or policy but not sufficiently serious enough to
10 require censure. A reprimand is distinguished from censure in that it is not punishment or
11 discipline and does not require an investigation or hearing.

12 (b) The Council may adopt a resolution of reprimand in the same manner as provided for
13 the adoption of any resolution; provided, that the Mayor is permitted to speak in the Mayor's
14 defense before action on the motion for adoption of the resolution. The fact that the Mayor does
15 not choose to respond to the resolution or does not attend the meeting at which the resolution is
16 to be adopted shall not prevent the Council from adopting the resolution; provided, that the
17 Mayor had actual notice of the inclusion of the resolution on the agenda and had a reasonable
18 opportunity to attend the meeting.

19 Sec. 105. Censure.

20 (a) Censure is a formal statement of the Council officially disciplining the Mayor. It is a
21 punitive action that serves as a penalty imposed for wrongdoing, but it carries no fine or
22 suspension of the Mayor's rights as an elected official. Censure should be used for cases in
23 which the Council determines that the violation of law or policy is a serious offense. To protect

1 the overriding principle of freedom of speech, the Council shall not impose censure on the
2 Mayor for the exercise of the Mayor's First Amendment right, no matter how distasteful the
3 expression of that right was to the District. Nothing in this section shall be construed to prohibit
4 the Council, as a body, from condemning and expressing its strong disapproval.

5 (b)(1) The Council, by a 2/3rd vote of its members present and voting, may adopt a
6 resolution of censure if it finds, based on substantial evidence, that the Mayor took an action that
7 amounts to a gross failure to meet the highest standards of personal and professional conduct.

8 (2) Substantial evidence is proof that a reasonable person would accept as
9 adequate to support a conclusion or decision in favor of censure.

10 106. Expulsion.

11 (a) Expulsion is the most severe punitive action, serving as a penalty imposed for
12 egregious wrongdoing. Expulsion results in the removal of the Mayor. Expulsion should be
13 used for cases in which the Council determines that the violation of law is of the most serious
14 nature, including those violations that substantially threaten the public trust. To protect the
15 exercise of official Mayoral duties and the overriding principle of freedom of speech, the
16 Council shall not expel the Mayor for the exercise of the Mayor's First Amendment right, no
17 matter how distasteful the expression of that right was to the District or in the official exercise of
18 the his or her office.

19 (b)(1) The Council, by a 5/6 vote of its members, may adopt a resolution of expulsion if it
20 finds, based on substantial evidence, that the Mayor took an action that amounts to a gross failure
21 to meet the highest standards of personal and professional conduct.

22 (2) Substantial evidence is proof that a reasonable person would accept as
23 adequate to support a conclusion or decision in favor of expulsion.

1 TITLE. II. REPRIMAND, CENSURE, AND EXPULSION OF ATTORNEY GENERAL
2 PROCEDURES.

3 Sec. 201. The Attorney General for the District of Columbia Clarification and Elected
4 Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code §
5 1-301.81, *et seq.*) is amended as follows:

6 (a) New sections 104a, 104b, 104c, 104d, 104e, and 104f are added to read as follows:

7 “Sec. 104a. *Ad hoc* committees.

8 “(a) An *ad hoc* committee (“committee”) shall be established for the purpose of
9 considering evidence of the Attorney General’s violation of policy or law and to make
10 recommendations for further action. A committee shall be established by the request of 5
11 members of the Council, the Mayor, or upon the censure of the Attorney General by the Ethics
12 Board.

13 “(b) The committee shall be composed of 5 members appointed by the Chairman.
14 If the Chairman is the subject of a request or has been sanctioned by the Ethics Board within 12
15 months of the committee being created, the Chairman Pro Tempore shall select the members of
16 the committee. If the Chairman Pro Tempore is subject of a request or has been sanctioned by
17 the Ethics Board within 12 months of the committee being created, the members of the Council
18 shall meet and appoint a member to convene a committee. The committee shall not include the
19 member making the request or a member who is the subject of a request or has been sanctioned
20 by the Ethics Board within 12 months of the committee being created. The committee’s
21 proceedings may be conducted in executive session in accordance with section 504 of the Rules
22 of the Council of the District of Columbia, Council Period 20 Resolution of 2013, effective

1 January 25, 2013 (Res. 20-1; 60 DCR 627), except that the Committee’s recommendation for
2 further action shall be made public.

3 “(c) No penalty shall be imposed pursuant to sections 104e and 104f unless first
4 recommended by a committee.

5 “Sec. 104b. *Ad hoc* committee initiated by an Ethics Board censure.

6 “(a) A committee shall be established by the Council within 72 hours of a censure
7 of the Attorney General by the Ethics Board or as soon as practicable. A committee shall
8 consider the findings of the Ethics Board, conduct an investigation if warranted, and report its
9 findings and penalty recommendations, if any, to the Council within 45 days of being convened.
10 The penalty recommendations may include:

11 “(1) Reprimand;

12 “(2) Censure; or

13 “(3) Expulsion.

14 “(b) The Council shall meet to consider the recommendation within 7 days of
15 receiving the recommendations from the committee.

16 “Sec. 104c. *Ad hoc* committee by request.

17 “(a) A request for reprimand, censure, or expulsion of the Attorney General may
18 be submitted to the Secretary of the Council by the Mayor or by 5 members of the Council. The
19 request shall contain the specific charges on which the proposed sanction is based.

20 “(b) The Secretary shall deliver a copy of the request for a committee and the
21 charges to each member of the Council, the Mayor, and the Attorney General at least 48 hours
22 before the first meeting of the committee at which the request will be considered.

1 “(c) The committee’s proceedings may be conducted in executive session in
2 accordance with section 504 of the Rules of the Council of the District of Columbia, Council
3 Period 20 Resolution of 2013, effective January 25, 2013 (Res. 20-1; 60 DCR 627). The
4 committee shall permit testimony from the members, the Mayor, and the Attorney General and
5 shall determine whether:

6 “(1) Further investigation of the charges is required to determine if a
7 hearing is warranted;

8 “(2) The matter shall be set for a hearing; or

9 “(3) No further action should be taken with respect to the request.

10 “(d) If the committee determines that no further action should be taken with
11 respect to the request, the committee shall report that to the Council at its earliest opportunity. If
12 the committee determines that further investigation is required, the committee shall conduct an
13 investigation and report a summary of its proceedings and its findings, along with penalty
14 recommendations, if any, to the Council at its earliest opportunity. The penalty
15 recommendations, if any, may include:

16 “(1) Reprimand;

17 “(2) Censure; or

18 “(3) Expulsion.

19 “(e) If the committee does not report its recommendation and findings to the
20 Council within 90 calendar days of the receipt or request to convene the committee, the matter
21 shall be sent to the Council for its consideration.

22 “(f) Upon receipt of the report of the committee, or at the expiration of the time
23 for the committee to report to the Council, the Chairman shall place the matter on the Council’s

1 agenda to determine whether or not a hearing is warranted. If the Council decides to set the
2 matter for a hearing, it shall be scheduled for no sooner than one week after the determination to
3 hear the matter. Written notice of the hearing shall be delivered in person to the Attorney
4 General or to the Attorney General’s office at least 48 hours in advance of a scheduled hearing.

5 “(g)(1) The hearing shall be conducted by the Chairman or, if the Chairman is the
6 subject of a hearing or has been sanctioned by the Ethics Board within 12 months of the hearing,
7 the Chairman Pro Tempore shall conduct the hearing. If the Chairman Pro Tempore is the
8 subject of a hearing or has been sanctioned by the Ethics Board within 12 months of the hearing,
9 the members of the Council shall meet and appoint a member to conduct the hearing. At the
10 hearing, the Attorney General shall be given the opportunity to make an opening and a closing
11 statement, to call witnesses on the Attorney General’s behalf, and to question the Attorney
12 General’s accusers. The Attorney General may be represented by a person of the Attorney
13 General’s choice whether or not the person is an attorney at law and may have that representative
14 speak or question witnesses on the Attorney General’s behalf.

15 “(2) The questioning or cross-examining of witnesses may be reasonably
16 limited by the chair of the hearing.

17 “(3) Testimony shall be taken only from witnesses having direct
18 knowledge of facts or circumstances relevant to the specific charges under consideration.

19 “(4) The rules of evidence and judicial procedure applicable in courts of
20 law shall not be applicable at this hearing, and the procedures shall be generally informal.

21 “(h) Notwithstanding any other provision, the Chairman, pursuant to an
22 authorizing resolution, may appoint any person or a standing or special committee to perform an
23 investigation required by this section.

1 “Sec. 104d. Reprimand.

2 “(a) A reprimand is a formal statement of the Council officially disapproving the
3 conduct of the Attorney General. A reprimand shall be directed to the Attorney General based
4 on a particular action or set of actions determined to be in violation of law or policy but not
5 sufficiently serious to require censure. A reprimand is distinguished from censure in that it is not
6 punishment or discipline and does not require an investigation or hearing.

7 “(b) The Council may adopt a resolution of reprimand in the same manner as
8 provided for the adoption of any resolution; provided, that the Attorney General is permitted to
9 speak in his or her defense before action on the motion for adoption of the resolution. The fact
10 the Attorney General does not choose to respond to the resolution or does not attend the meeting
11 at which the resolution is to be adopted shall not prevent the Council from adopting the
12 resolution; provided, that the Attorney General had actual notice of the inclusion of the
13 resolution on the agenda and had a reasonable opportunity to attend the meeting.

14 “Sec. 104e. Censure.

15 “(a) Censure is a formal statement of the Council officially disciplining the
16 Attorney General. It is a punitive action that serves as a penalty imposed for wrongdoing, but it
17 carries no fine or suspension of the Attorney General’s rights as an elected official. Censure
18 should be used for cases in which the Council determines that the violation of law or policy is a
19 serious offense. To protect the overriding principle of freedom of speech, the Council shall not
20 impose censure on the Attorney General for the exercise of his or her First Amendment right, no
21 matter how distasteful the expression of that right was to the District. Nothing in this act shall be
22 construed to prohibit the Council, as a body, from condemning and expressing its strong
23 disapproval.

1 “(b)(1) The Council, by a 2/3rd vote of its members present and voting, may adopt
2 a resolution of censure if it finds, based on substantial evidence, that the Attorney General took
3 an action that amounts to a gross failure to meet the highest standards of personal and
4 professional conduct.

5 “(2) Substantial evidence is proof that a reasonable person would accept as
6 adequate to support a conclusion or decision in favor of censure.

7 “104f. Expulsion.

8 “(a) Expulsion is the most severe punitive action, serving as a penalty imposed for
9 egregious wrongdoing. Expulsion results in the removal of the Attorney General. Expulsion
10 should be used for cases in which the Council determines that the violation of law is of the most
11 serious nature, including those violations that substantially threaten the public trust. To protect
12 the exercise of official Attorney General duties and the overriding principle of freedom of
13 speech, the Council shall not impose expulsion on the Attorney General for the exercise of the
14 Attorney General’s First Amendment right, no matter how distasteful the expression of that right
15 was to the District or in the official exercise of his or her office.

16 “(b)(1) The Council, by a 5/6 vote of its members, may adopt a resolution of
17 expulsion if it finds, based on substantial evidence, that the Attorney General took an action that
18 amounts to a gross failure to meet the highest standards of personal and professional conduct.

19 “(2) Substantial evidence is proof that a reasonable person would accept as
20 adequate to support a conclusion or decision in favor of expulsion.”.

21 TITLE. III. AMENDMENTS TO THE HOME RULE ACT.

22 Sec. 301 The District of Columbia Home Rule Act, approved December 24, 1973 (87
23 Stat. 777; D.C. Official Code § 1-201, *et seq.*), is amended as follows:

1 (a) Section 421 (D.C. Official Code § 1-204.21) is amended as follows:

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

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

4 “(1A) By a 5/6 vote of its members, the Council may adopt a resolution of
5 expulsion if it finds, based on substantial evidence, that the Mayor took an action that amounts to
6 a gross failure to meet the highest standards of personal and professional conduct. Expulsion is
7 the most severe punitive action, serving as a penalty imposed for egregious wrongdoing.
8 Expulsion results in the removal of the Mayor. Expulsion should be used for cases in which the
9 Council determines that the violation of law is of the most serious nature, including those
10 violations that substantially threaten the public trust. To protect the exercise of official Mayoral
11 duties and the overriding principle of freedom of speech, the Council shall not impose expulsion
12 on the Mayor for the exercise of his or her First Amendment right, no matter how distasteful the
13 expression of that right was to the District or in the official exercise of his or her office.”.

14 (b) Section 435 (D.C. Official Code § 1-204.35) is amended as follows:

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

16 “(a-1) By a 5/6 vote of its members, the Council may adopt a resolution of
17 expulsion if it finds, based on substantial evidence, that the Attorney General took an action that
18 amount to a gross failure to meet the highest standards of personal and professional conduct.
19 Expulsion results in the removal of the Attorney General. Expulsion should be used for cases in
20 which the Council determines that the violation of law is of the most serious nature, including
21 those violations that substantially threaten the public trust. To protect the exercise of official
22 Attorney General duties and the overriding principle of freedom of speech, the Council shall not
23 impose expulsion on the Attorney General for the exercise of the Attorney General’s First

1 Amendment right, no matter how distasteful the expression of that right was to the District or in
2 the official exercise of his or her office.”.

3 TITLE IV. GENERAL PROVISIONS.

4 Sec. 401. Fiscal impact statement.

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

8 Sec. 402. Effective date.

9 (a) Except as provided in subsections (b) and (c) of this section, this act shall take effect
10 following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to
11 override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) if
12 the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat, 813; D.C.
13 Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

14 (b) Title II shall take effect upon election of an attorney general, as provided in section
15 102(a) of the Attorney General for the District of Columbia Clarification and Elected Term
16 Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-
17 301.82).

18 (c) Title III shall take effect as provided in section 303 of the District of Columbia Home
19 Rule Act, approved December 24, 1973 (87 Stat. 784; D.C. Official Code § 1-203.03).

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