

A RESOLUTION

25-164

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 6, 2023

To declare the existence of an emergency with respect to the need to amend section 23-581(a)(3) of the District of Columbia Official Code to make a technical correction to clarify that a law enforcement officer may arrest, without a warrant having been previously issued, a person that the officer has probable cause to believe has committed the offense of fleeing from the scene of an accident, if the officer has reasonable grounds to believe that, unless the person is immediately arrested, reliable evidence of alcohol or drug use may become unavailable or the person may cause personally injury or property damage.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Law Enforcement Arrest Authority Technical Correction Emergency Declaration Resolution of 2023”.

Sec. 2. (a) Section 23-581 of the District of Columbia Official Code (“Section 23-581”) provides authority for law enforcement officers to arrest persons without a warrant having been issued in limited circumstances.

(b) Section 23-581(a)(3) provides law enforcement officers with the specific authority to arrest a person, without a warrant having been previously issued, where the officer has probable cause to believe the person has committed the offense of fleeing from the scene of an accident. Section 23-581(a)(3) cross-references section 10(a) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1124; D.C. Official Code § 50-2201.05(a)) (“D.C. Official Code § 50-2201.05”), which previously established the offense of fleeing from the scene of the accident; however, D.C. Official Code § 50-2201.05(a) was repealed by section 102€ of the Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012, effective April 27, 2013 (D.C. Law 19-266; 59 DCR 12957) (“Act”). The Act established a nearly identical offense, entitled “leaving after colliding,” which is codified at D.C. Official Code § 50-2201.05c, but the Act failed to amend section 23-581(a)(3) to make a conforming amendment.

(c) Without legislation to correct this erroneous cross-reference, law enforcement officers may lack the explicit authority to make an arrest without a warrant being previously issued

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where the officer has probable cause to believe a person is fleeing the scene of an accident. Given the nature of fleeing from the scene of an accident, officers typically cannot seek a warrant prior to making an arrest. Failure of the Council to approve the technical correction proposed in this emergency legislation would make fleeing from the scene of an accident a difficult if not impossible offense for law enforcement officers to enforce.

(d) Emergency legislation is necessary to amend section 23-581(a)(3) to reference the authority provided at D.C. Official Code § 50-2201.05c for a law enforcement officer to arrest, without a warrant having been previously issued, a person that the officer has probable cause to believe has committed the offense of fleeing from the scene of an accident.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Law Enforcement Arrest Authority Technical Correction Emergency Amendment Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.