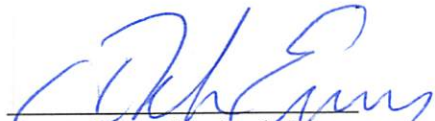

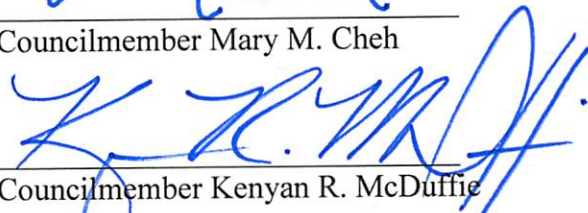
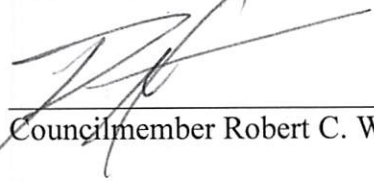


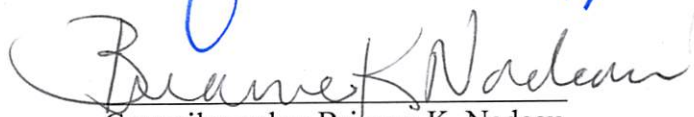
1 
2 Councilmember Jack Evans


Councilmember Mary M. Cheh

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6 Councilmember Anita Bonds


Councilmember Kenyan R. McDuffie

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10 Councilmember Robert C. White, Jr.


Councilmember Brianne K. Nadeau

11
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13 A BILL

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16 _____
17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
18
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21 To require the Department of General Services (“DGS”) to publish a master list of public
22 recreational spaces in the District, to require the Mayor to transmit to the Council a study
23 on the safety of synthetic materials used in construction at public recreational spaces, to
24 prohibit the use of those synthetic materials that fail to adhere to certain health and safety
25 standards and to require DGS to make publicly available a list of those materials that are
26 approved or disapproved for use, to require DGS to assess public recreational spaces for
27 materials containing known carcinogens or toxins and to require DGS to provide the
28 Council with a remediation plan for such spaces, to require the regular testing of public
29 recreational spaces for adherence to certain health and safety standards, to require DGS to
30 develop protocols for the regular testing of public recreational spaces, to require DGS to
31 provide notice to DCPS, DPR, and the public regarding the failure of a public
32 recreational space to meet certain health and safety standards, and to clarify that this Act
33 does not create a private right of action against the District of Columbia.
34

35 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
36 act may be cited as the “Safe Fields and Playgrounds Act of 2018”.

37 Sec. 2. Definitions.

38 For the purposes of this act, the term:

39 (1) "Construction project" means any original construction, resurfacing,
40 renovation, equipment replacement, or other similar activity with a contract value greater than
41 \$10,000 at a public recreational space.

42 (2) "G-max test" means any test that measures the shock-attenuation performance
43 of a field or sport surface.

44 (3) "Improvements" means any installed or constructed surface or structure at a
45 public recreational space.

46 (4) "Public recreational space" means a park, dog park, playground, spray park,
47 athletic field, or other space used for recreational activities that is owned or maintained by the
48 District.

49 (5) "Synthetic material" means any material used in or for construction at public
50 recreational spaces, apart from those that are naturally occurring.

51 Sec. 3. Public Recreational Space Master List. .

52 (a) By June 1, 2019, the Department of General Services ("DGS"), the Department of
53 Parks and Recreation ("DPR"), and the District of Columbia Public Schools ("DCPS"), shall:

54 (1) Create a master list of all public recreational spaces in the District, titled the
55 Public Recreational Space Master List, which shall include for each public recreational space:

56 (A) The address of the public recreational space;

57 (B) The District agency or agencies that own the public recreational space;

58 (C) A list of the materials of which any improvements to the public
59 recreational space are composed;

60 (D) The date of installation or construction of any improvements to the
61 public recreational space;

62 (E) The natural life, according to manufacturer specifications or, where
63 not available, industry standards, of any improvements to the public recreational space;

64 (F) The results of testing under section 4(b)(1) of this act; and

65 (G) The anticipated date of the next testing under section 4(b)(1) of this
66 act at the public recreational space; and

67 (2) Publish the Public Recreational Space Master List on the DGS website.

68 (b) DGS shall update the Public Recreational Space Master List within 30 days of the
69 completion of each construction project or receipt of final test results at a public recreational
70 space.

71 Sec. 4. Assessment of synthetic materials.

72 (a) Within 1 year after the effective date of this act, the Mayor shall transmit the results of
73 a study to the Council concerning the safety of all synthetic materials currently used in
74 construction projects at District public recreational spaces. This study shall identify whether the
75 synthetic material:

76 (1) Contains known carcinogens or other toxins, and whether the synthetic
77 materials pose a health risk if ingested, inhaled, or come into contact with a person's skin or
78 eyes;

79 (2) Meets American Society for Testing and Materials ("ASTM") International
80 safety standards for shock-absorption, where used for surfacing; or

81 (3) Can, under normal weather conditions, exhibit surface temperatures that cause
82 burns, dehydration, heat stroke, or heat exhaustion.

83 (b) Within 30 days after the Mayor transmits the study to the Council, the Department of
84 General Services ("DGS") shall:

85 (1) Prohibit all District employees, contractors, and subcontractors from using
86 synthetic materials in construction projects at a public recreational space that:

87 (A) Contain synthetic materials that pose a serious health risk when they
88 are ingested, inhaled, or come in contact with a person's skin or eyes;

89 (B) Score a g-max value of 165 G's or greater; or

90 (C) Measure a surface temperature measuring 122 degrees or greater;

91 (2) Issue notice to all contractors or subcontractors bidding on or holding
92 construction contracts with the District of those materials banned under section 5(b)(1) of this
93 act; and

94 (3) Publish on the DGS website:

95 (A) A list of all synthetic materials approved for use under subsection
96 (b)(1) of this subsection, including manufacturer material product sheets or similar
97 documentation, and that includes:

98 (i) The component materials of the product, including any infill,
99 backing, fibers, fiber coating, or paint;

100 (ii) The concentration of any known toxins, including lead,
101 cadmium, chromium, mercury, tin, and zinc;

102 (iii) Any human health data, including assessment of the risk posed
103 by eye and skin contact, ingestion, or inhalation, and any known carcinogenic properties;

104 (iv) Data on the material's flammability;

105 (v) Maintenance or other service requirements to ensure quality
106 control of the material; and

107 (vi) Any other special precautions or hazards posed by the material
108 under regular use; and

109 (B) A list of all synthetic materials, including any particular products, that
110 DGS has disapproved for use under subsection (b)(1) of this section. This list shall include the
111 bases upon which DGS has disapproved the synthetic material for use, including any tests,
112 studies, or other documentation used by DGS to make that determination.

113 (c) Neither DGS nor any contractor or subcontractor holding a contract with the District
114 shall be permitted to use a material in the construction, repair, or renovation of a public
115 recreational space unless it has been approved for use under subsection (b)(1) of this section.

116 (d) Within 180 days after transmitting the study to the Council, DGS shall transmit to the
117 Council:

118 (1) A list of all public recreational spaces that are composed, in whole or in part,
119 of synthetic materials prohibited under subsection (b)(1) of this section, including the name of
120 and health or safety risk posed by the synthetic material in use at the space; and

121 (2) A remediation plan for the removal of the synthetic material from the space,
122 including the anticipated period of time that the space will be closed to public use, if any.

123 Sec. 5. Annual testing.

124 (a) The Department of General Services ("DGS") shall conduct the following tests on all
125 public recreational spaces with surfaces composed of synthetic materials:

126 (A) Shock-attenuation performance through the use of g-max testing, with testing
127 occurring twice annually in January and June; and

128 (B) Measurement of surface temperature, with testing occurring at least once
129 annually in July;

130 (b)(1) Within 90 days of the effective date of this act, DGS shall establish protocols for
131 the testing of public recreational spaces as described in subsection (a). Under these protocols, a
132 public recreational space shall be considered failing if the material would be prohibited under
133 section 4(b)(1) of this act.

134 (2)(A) DGS shall conduct testing of public recreational spaces with surfaces
135 composed of synthetic materials under subsection (a) using the testing practices recommended
136 by the ASTM.

137 (B) DGS shall conduct testing of public recreational spaces with surfaces
138 composed of synthetic materials under subsection (a) using the equipment recommended by the
139 ASTM. Upon the ASTM updating its recommendations for testing equipment, DGS shall procure
140 the equipment within 1 year of date ASTM publishes the update on its website.

141 (3) DGS shall conduct testing of public recreational spaces with surfaces
142 composed of synthetic materials under subsection (a) in a manner that the testing and any needed
143 remediation will minimize interruption of DCPS, DPR, or permitted activities.

144 (c) If a public recreational space, in whole or in part, fails a test conducted pursuant to
145 subsection (a) of this section, DGS shall close the public recreational space to the public within
146 24 hours of receiving the failing test results. DGS shall not reopen the public recreational space
147 until remedial action is taken and the public recreational space passes a subsequent test.

148 (1) Within 2 business days of DGS receiving a test result resulting in the closure
149 of a public recreational space under this section, DGS shall:

150 (A) For all public recreational spaces owned or maintained by DCPS, send
151 the test results and a remediation plan to the Chief Operating Officer of DCPS; and

152 (B) For all public recreational spaces owned or maintained by DPR, send
153 the test results and a remediation plan to the Director of DPR.

154 (2) Within 2 business days of receiving a test result resulting in the closure of a
155 public recreational space under this section, DGS shall publish notice on the DGS website and
156 post conspicuous signage at the public recreational space that clearly communicates information
157 about the closure of the space, including the reason for the closure, the date and nature of any
158 planned remediation efforts, and contact information for a DGS employee responsible for
159 addressing questions about the remediation.

160 Sec. 6. DGS shall adhere to industry best practices regarding solicitation of and entering
161 into maintenance contracts for care of the District's public recreational spaces. This shall
162 include:

163 (1) Minimizing use of sole source or emergency procurement contracts where
164 such contracts would incur additional cost to the District; and

165 (2) Prioritizing maintenance contract proposals that would not void existing
166 warranties.

167 Sec. 7. Nothing in this Act is intended to, or does, create a private right of action against
168 the government of the District of Columbia and its officers, employees, agents, representatives,
169 contractors, successors, and assigns based upon compliance or noncompliance with its
170 provisions. No person or entity may assert any claim or right as a beneficiary or protected class
171 under this section in any civil, criminal, or administrative action against the District of Columbia.

172 Sec. 7. Fiscal impact statement.

173 The Council adopts the fiscal impact statement in the committee report as the fiscal
174 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
175 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

176 Sec. 9. Effective date.

177 This act shall take effect following approval by the Mayor (or in the event of veto by the
178 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
179 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
180 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
181 Columbia Register.