To require the Department of General Services ("DGS") to publish a master list of public recreational spaces in the District, to require the Mayor to transmit to the Council a study on the safety of synthetic materials used in construction at public recreational spaces, to prohibit the use of those synthetic materials that fail to adhere to certain health and safety standards and to require DGS to make publicly available a list of those materials that are approved or disapproved for use, to require DGS to assess public recreational spaces for materials containing known carcinogens or toxins and to require DGS to provide the Council with a remediation plan for such spaces, to require the regular testing of public recreational spaces for adherence to certain health and safety standards, to require DGS to develop protocols for the regular testing of public recreational spaces, to require DGS to provide notice to DCPS, DPR, and the public regarding the failure of a public recreational space to meet certain health and safety standards, and to clarify that this Act does not create a private right of action against the District of Columbia.

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

Sec. 2. Definitions.

For the purposes of this act, the term:
(1) "Construction project" means any original construction, resurfacing, renovation, equipment replacement, or other similar activity with a contract value greater than $10,000 at a public recreational space.

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

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

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

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

Sec. 3. Public Recreational Space Master List.

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

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

(A) The address of the public recreational space;

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

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

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

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

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

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

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

Sec. 4. Assessment of synthetic materials.

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

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

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

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

(b) Within 30 days after the Mayor transmits the study to the Council, the Department of
General Services (“DGS”) shall:
(1) Prohibit all District employees, contractors, and subcontractors from using synthetic materials in construction projects at a public recreational space that:

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

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

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

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

(3) Publish on the DGS website:

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

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

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

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

(iv) Data on the material’s flammability;

(v) Maintenance or other service requirements to ensure quality control of the material; and
(vi) Any other special precautions or hazards posed by the material under regular use; and

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

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

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

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

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

Sec. 5. Annual testing.

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

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

(B) Measurement of surface temperature, with testing occurring at least once annually in July;
(b)(1) Within 90 days of the effective date of this act, DGS shall establish protocols for the testing of public recreational spaces as described in subsection (a). Under these protocols, a public recreational space shall be considered failing if the material would be prohibited under section 4(b)(1) of this act.

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

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

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

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

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

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

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

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

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

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

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

Sec. 7. Fiscal impact statement.

Sec. 9. Effective date.

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