
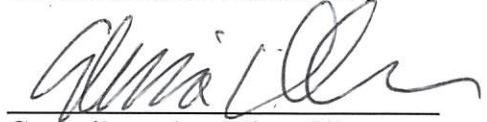


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Councilmember Jack Evans

  
Councilmember Kenyan R. McDuffie

  
Councilmember Elissa Silverman

  
Councilmember Anita Bonds

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To move toward a right to counsel for low-income eligible individuals or groups in civil cases involving fundamental human needs through the creation of civil right to counsel projects; to require the DC Bar Foundation to create and implement for purposes of such projects criteria, policies, and procedures for the provision of legal services, including full-scope and limited-scope representation, for eligible individuals or groups; to require that designated organizations provide legal counsel to eligible individuals or groups as part of such projects; to require the DC Bar Foundation to consult with designated entities in the creation of the plan for the provision of legal services under such projects; and to require the creation of a report that analyzes implementation and performance metrics in order to assess the continued needs of low-income residents and recommend adjustments to the criteria, policies, and procedures for the provision of legal services under the Act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Expanding Access to Justice Act of 2016”.

TITLE I— FINDINGS AND DEFINITIONS

Sec. 101. Findings.

(a) A right to counsel should attach in civil cases whenever fundamental human needs are at risk. Fundamental human needs include preservation of liberty (incarceration and immigration

42 detention or deportation), housing, safety (protection from domestic violence), family integrity  
43 (child custody and visitation), health care, nutrition, education, income (access to public benefits  
44 and wages), and a meaningful opportunity to obtain employment.

45 (b) District of Columbia residents living in poverty or facing discrimination often lack  
46 meaningful recourse to the legal system to protect their rights. As a result, too many District  
47 residents are deprived of fundamental human needs.

48 (c) Representation in cases involving fundamental needs is essential to the fair  
49 functioning of the justice system. The existing legal services and pro bono networks in the  
50 District are strong, but they lack sufficient resources to meet the overwhelming need.

51 (d) In most civil cases involving fundamental human needs, assistance from a lawyer –  
52 and typically full representation – is necessary to provide a complete and fair resolution of a  
53 legal issue. Legal assistance can play a critical role in protecting rights and ensuring that all  
54 District residents can enjoy the benefits of and fully contribute to the life of the District.

55 (e) Systemic reform to laws and policies and the functioning of judicial and  
56 administrative tribunals is a vital strategy—along with representation in a wide array of cases—  
57 for empowering low-income communities and achieving equal access to fundamental human  
58 needs.

59 (f) Safe, secure, and accessible housing is essential to achieving equal access to all other  
60 fundamental needs. Without housing, individuals and families too often cannot preserve family  
61 integrity, gain employment or other income, or enjoy access to healthcare, proper nutrition, and  
62 education.

63 (g) A growing number of jurisdictions already have established projects to provide a right  
64 to counsel in housing cases, including California, Massachusetts, and New York. Studies predict

65 that the provision of counsel in housing cases not only will result in more just and substantive  
66 outcomes, but also has the potential to save public funds by avoiding homelessness and  
67 preserving health, education, and employment.

68 (h) Demonstrating the empirical value of the provision of counsel to low-income people  
69 will move the District toward the establishment of a full right to counsel in civil cases involving  
70 fundamental human needs.

71 Sec. 102. Definitions.

72 For purposes of this section, the term:

73 (a) "Covered proceeding" means an actual or reasonably anticipated administrative or  
74 judicial proceeding in the District of Columbia:

75 (1) To evict an eligible individual or group;

76 (2) Initiated by an eligible individual or group and relating to one or more housing  
77 code violations as defined in Chapters 1 to 8 of Title 12G or §§ 400 to 900 of Title 14 of the  
78 District of Columbia Municipal Regulations;

79 (3) To terminate an eligible individual or group from participation in any District  
80 housing subsidy program;

81 (4) To increase the rent charged to an eligible individual or group pursuant to  
82 sections 210, 211, 212, 214, or 215 of the Rental Housing Act, effective July 17, 1985 (D.C. Law  
83 6-10; D.C. Official Code § 42-3401.01 *et seq.*);

84 (5) Initiated by an eligible individual or group pursuant to sections 208(a) or  
85 216(a) of the Rental Housing Act, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §  
86 42-3401.01 *et seq.*); or

87 (6) Initiated by an eligible individual or group to enforce any rights or appeal any  
88 adverse action pursuant to the Homeless Services Reform Act of 2005, effective October 22,  
89 2005 (D.C. Law 16-35; D.C. Official Code § 4-175.01, *et seq.*).

90 (b) “Designated legal services provider” means a non-profit organization or clinical  
91 program headquartered in the District of Columbia that provides legal services under this act.

92 (c) “Eligible individual or group” means a tenant or occupant, or group of tenants or  
93 occupants, residing in a rental unit in a housing accommodation in the District of Columbia  
94 whose gross household income(s) falls at or below two-hundred percent of the federal poverty  
95 guidelines issued by the United States Department of Health and Human Services.

96 (d) “Housing accommodation” shall have the same meaning as defined in Section  
97 103(11) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980  
98 (D.C. Law 3-86; D.C. Official Code § 42-3401.03(11)).

99 (e) “Legal services” means representation of an eligible individual or group through the  
100 provision of advice or brief services, or representation in a covered proceeding, including limited  
101 scope representation.

102 (f) “Licensed legal professional” means a member of the District of Columbia Bar  
103 authorized to practice law, a law student participating in an authorized, attorney-supervised  
104 clinical program through an accredited law school in the District of Columbia, or a member of  
105 the Bar of another jurisdiction who is legally permitted to appear and represent the specific client  
106 in the particular proceeding in the court or other forum in which the matter is pending.

107 (g) “Rental unit” shall have the same meaning as defined in Section 103(16) of the Rental  
108 Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C.  
109 Official Code § 42-3401.03(16)).

110 TITLE II – CREATION OF CIVIL RIGHT TO COUNSEL PROJECTS.

111 Sec. 201. Civil right to counsel projects for eligible individuals or groups in covered  
112 proceedings.

113 (a) The DC Bar Foundation (“Bar Foundation”) shall adopt policies and procedures, issue  
114 requests for proposals, and make grants to designated legal services providers for the purpose of  
115 creating civil right to counsel projects.

116 (b) The projects shall be designed to demonstrate the value of the right to counsel in civil  
117 cases involving fundamental human needs.

118 (c) The Bar Foundation shall adopt criteria allowing designated legal service providers to  
119 limit representation to eligible individuals or groups in covered proceedings based on the type of  
120 covered proceedings or other criteria established by the Bar Foundation.

121 (d) Nothing in this Act requires legal services providers to serve eligible individuals or  
122 groups in covered proceedings beyond the provider’s contractual commitment to the Bar  
123 Foundation.

124 TITLE III – PLAN FOR THE PROVISION OF LEGAL SERVICES; AUDIT AND  
125 REPORTING REQUIREMENTS.

126 Sec. 301. Plan for the provision of legal services.

127 (a) The Bar Foundation shall develop an annual plan that includes criteria, policies, and  
128 procedures for the provision of legal services by designated legal services providers to eligible  
129 individuals or groups in covered proceedings.

130 (b) The Bar Foundation shall identify one or more designated legal services providers  
131 capable of providing legal services in covered proceedings.

155 Sec. 302. Financial audit and reporting requirements.

156 (a) The Bar Foundation shall provide the Council of the District of Columbia with:

157 (1) An annual financial audit of its activities prepared by a certified public  
158 accountant licensed in the District of Columbia and carried out in accordance with generally  
159 accepted auditing standards. The audit may be conducted as part of the Bar Foundation's annual  
160 audit.

161 (2) Biannual reporting that includes information on the following:

162 (i) The gender, race, ethnicity, and age of eligible individuals served;

163 (ii) The election ward of residence of eligible individuals served;

164 (iii) The incomes of eligible individuals served;

165 (iv) Legal services provided by type of legal issue; and

166 (v) A list of designated legal services providers and the amount of funding  
167 provided to each.

168 (3) Annual programmatic reporting that includes:

169 (i) An evaluation of the performance of each designated legal services  
170 provider;

171 (ii) The legal outcomes for eligible individuals or groups;

172 (iii) An evaluation of implementation challenges and recommendations for  
173 future improvements; and

174 (iv) An assessment of unmet legal needs in the provision of legal services  
175 for covered proceedings.

176 Sec. 303. Other criminal and civil proceedings.

177 This act shall not be construed to negate, alter, or limit any right to counsel in any civil or  
178 criminal action or proceeding otherwise provided by District or federal law or regulation.

179 Sec. 304. Establishment of the Civil Right to Counsel Innovation Fund.

180 (a) There is established as a nonlapsing special fund, the Civil Right to Counsel  
181 Innovation Fund ("Fund").

182 (b) The monies in the Fund shall only be used for the provision of legal services to  
183 eligible individuals or groups in covered proceedings and for the administration of this act.

184 (c) The Fund shall not be used to supplant funds appropriated as part of an approved  
185 annual budget for Access to Justice Initiative programming.

186 (d) All funds deposited into the Fund, and any interest earned on those funds, shall not  
187 revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end  
188 of the fiscal year, or at any other time, but shall be continually available for the uses and  
189 purposes set forth in subsection (b) of this section without regard to fiscal year limitation.

190 TITLE IV. APPLICABILITY; FISCAL IMPACT; EFFECTIVE DATE.

191 Sec. 401. Applicability.

192 This act shall apply upon the inclusion of its fiscal effect in an approved budget and  
193 financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in  
194 a certification published by the Council in the District of Columbia Register.

195 Sec. 402. Fiscal impact statement.

196 The Council adopts the fiscal impact statement in the committee report as the fiscal  
197 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
198 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

199 Sec. 403. Effective date.

200           This act shall take effect following approval by the Mayor (or in the event of veto by the  
201 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
202 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
203 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of  
204 Columbia Register.