

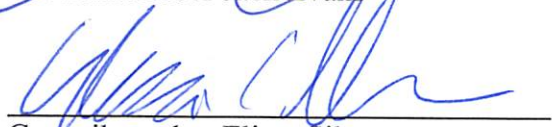
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Councilmember Jack Evans



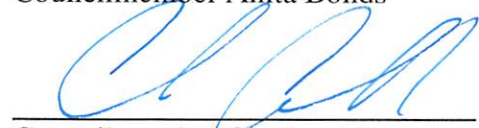
Councilmember Kenyan R. McDuffie



Councilmember Elissa Silverman



Councilmember Anita Bonds



Councilmember Charles Allen

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 2017”.

TITLE I— FINDINGS AND DEFINITIONS

45 Sec. 101. Findings.

46 (a) A right to counsel should attach in civil cases whenever fundamental human needs are
47 at risk. Fundamental human needs include preservation of liberty (incarceration and immigration
48 detention or deportation), housing, safety (protection from domestic violence), family integrity
49 (child custody and visitation), health care, nutrition, education, income (access to public benefits
50 and wages), and a meaningful opportunity to obtain employment.

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

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

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

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

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

68 (g) A growing number of jurisdictions already have established projects to provide a right
69 to counsel in housing cases, including California, Massachusetts, and New York. Studies predict
70 that the provision of counsel in housing cases not only will result in more just and substantive
71 outcomes, but also has the potential to save public funds by avoiding homelessness and preserving
72 health, education, and employment.

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

76 Sec. 102. Definitions.

77 For purposes of this section, the term:

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

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

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

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

86 (4) To increase the rent charged to an eligible individual or group pursuant to
87 sections 210, 211, 212, 214, or 215 of the Rental Housing Act, effective July 17, 1985 (D.C. Law
88 6-10; D.C. Official Code § 42-3401.01 *et seq.*);

89 (5) Initiated by an eligible individual or group pursuant to sections 208(a) or 216(a)
90 of the Rental Housing Act, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-
91 3401.01 *et seq.*); or

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

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

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

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

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

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

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

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

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

118 (a) The DC Bar Foundation ("Bar Foundation") shall adopt policies and procedures, issue
119 requests for proposals, and make grants to designated legal services providers for the purpose of
120 creating civil right to counsel projects.

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

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

126 (d) Nothing in this Act requires legal services providers to serve eligible individuals or
127 groups in covered proceedings beyond the provider's contractual commitment to the Bar
128 Foundation.

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

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

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

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

137 (c) In identifying designated legal services providers, the Bar Foundation shall only
138 consider providers that:

139 (1) Are headquartered in the District of Columbia and maintain a practice of
140 furnishing free legal services to individuals who cannot afford the services of a licensed legal
141 professional;

142 (2) Possess expertise in housing law, landlord-tenant law, or related experience in
143 representing eligible individuals or groups in covered proceedings;

144 (3) Demonstrate expertise in recognizing and responding to the often multiple legal
145 issues facing low-income residents of the District of Columbia; and

146 (4) Possess adequate infrastructure and expertise to provide consistent, high-quality
147 oversight, training, evaluation, and strategic responses to emerging or changing needs in the client
148 communities served.

149 (d) In developing the plan under subsection (a) of this section, the Bar Foundation shall
150 consult with:

151 (1) Two designees appointed by the Chairman of the Council of the District of
152 Columbia;

153 (2) The Deputy Mayor for Public Safety and Justice or his or her designee;

154 (3) The Director of the Department of Housing and Community Development or
155 his or her designee;

156 (4) The Director of the District of Columbia Housing Authority or his or her
157 designee;

- 158 (5) The Chief Tenant Advocate or his or her designee; and
159 (6) The Attorney General for the District of Columbia or his or her designee.

160 Sec. 302. Financial audit and reporting requirements.

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

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

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

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

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

169 (iii) The incomes of eligible individuals served;

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

171 (v) A list of designated legal services providers and the amount of funding

172 provided to each.

173 (3) Annual programmatic reporting that includes:

174 (i) An evaluation of the performance of each designated legal services
175 provider;

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

177 (iii) An evaluation of implementation challenges and recommendations for
178 future improvements; and

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

181 Sec. 303. Other criminal and civil proceedings.

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

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

185 (a) There is established as a nonlapsing special fund, the Civil Right to Counsel Innovation
186 Fund (“Fund”).

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

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

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

195 **TITLE IV. APPLICABILITY; FISCAL IMPACT; EFFECTIVE DATE.**

196 Sec. 401. Applicability.

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

200 Sec. 402. Fiscal impact statement.

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

204 Sec. 403. Effective date.

205 This act shall take effect following approval by the Mayor (or in the event of veto by the
206 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
207 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
208 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of
209 Columbia Register.