

AN ACT

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IN THE COUNCIL OF DISTRICT OF COLUMBIA

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To amend the Office of Administrative Hearings Establishment Act of 2001 to expand the jurisdiction of the Office of Administrative Hearings to include certain cases from the Department of Behavioral Health, certain cases arising from the Condominium Act of 1976, certain cases arising from the Rental Housing Conversion and Sale Act of 1980, adjudicated cases involving the enforcement of administrative civil penalties by the Department of Energy and Environment, the denial or revocation of a notary commission, certain cases involving the Day Care Policy Act of 1979 and the Child Development Facilities Regulation Act of 1988, the contested residency status of a public school student pursuant to the District of Columbia Nonresident Tuition Act, certain disputes under the State Education Office Establishment Act of 2000, and certain disputes under the District of Columbia Child Support Enforcement Amendment Act of 1985, and to require that Office of Administrative Hearings Administrative Law Judges meet all eligibility requirements at the time of reappointment; and to make conforming amendments to the Condominium Act of 1976, the Nursing Home and Community Residence Facility Residents' Protections Act of 1985, and the District of Columbia Child Support Enforcement Amendment Act of 1985.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Jurisdiction Expansion Amendment Act of 2018".

Sec. 2. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 2-1831.01) is amended by adding a new paragraph (7A) to read as follows:

“(7A) “Grievance” means a consumer complaint filed with the Department of Behavioral Health that alleges a violation of a right established by the Mental Health Consumers’ Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56, D.C. Official Code § 7-1231.01 *et seq.*)”.

(b) Section 6 (D.C. Official Code § 2-1831.03) is amended as follows:

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(1) Subsection (a) is amended as follows:

(A) The lead-in language is amended to read as follows:

“(a) This act shall apply to adjudicated cases under the jurisdiction of the following agencies or arising pursuant to the following provisions of law:”.

(B) Paragraph (8) is repealed.

(2) Subsection (b) is amended as follows:

(A) The lead-in language is amended to read as follows:

“(b) This act shall apply to adjudicated cases under the jurisdiction of the following agencies or arising pursuant to the following provisions of law:”.

(B) Paragraph (1) is amended by striking the phrase “other than the private workers’ compensation function;” and inserting the phrase “excluding private workers’ compensation cases;” in its place.

(C) Paragraph (2) is amended to read as follows:

“(2) Department of Consumer and Regulatory Affairs, except for those cases under the jurisdiction of the Real Property Tax Appeals Commission for the District of Columbia established in D.C. Official Code § 47-825.01a;”.

(D) Paragraph (5) is amended by striking the phrase “Historic Preservation Office within” and inserting the phrase “Historic Preservation Office, as defined in section 3(6A) of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1102(6A)), within” in its place.

(3) Subsection (b-1) is amended to read as follows:

“(b-1) This act shall apply to adjudicated cases arising under the jurisdiction of the Rent Administrator pursuant to section 204 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.04).”.

(4) Subsection (b-2) is amended as follows:

(A) The lead-in language is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), and (b-1) of this section, as of January 1, 2009, this” and inserting the word “This” in its place.

(B) Paragraph (1) is repealed.

(5) Subsection (b-3) is amended by striking the phrase “In addition to those cases described in subsections (a), (b), (b-1), and (b-2) of this section, as of May 5, 2010, this” and inserting the word “This” in its place.

(6) Subsection (b-4) is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), and (b-3) of this section, this” and inserting the word “This” in its place.

(7) Subsection (b-6) is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), and (b-5) of this section, this” and inserting the word “This” in its place.

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(8) Subsection (b-7) is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), and (b-6) of this section, this” and inserting the word “This” in its place.

(9) Subsection (b-8), as added by section 3(b) of the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014, effective June 10, 2014 (D.C. Law 20-108; 61 DCR 3892), is amended by striking the phrase “In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), and (b-7) of this section, this” and inserting the word “This” in its place.

(10) Subsection (b-8), as added by section 3(b) of the Public Space Enforcement Amendment Act of 2014, effective March 11, 2015 (D.C. Law 20-207; 61 DCR 12690), is redesignated as subsection (b-9) and amended to read as follows:

“(b-9) This act shall apply to adjudicated cases under the jurisdiction of the District Department of Transportation.”.

(11) Subsection (b-9), as added by section 5 of the Higher Education Licensure Commission Amendment Act of 2015, effective February 27, 2016 (D.C. Law 21-74; 63 DCR 252), is redesignated as subsection (b-10) and amended to read as follows:

“(b-10) This act shall apply to adjudicated cases involving a civil fine or penalty imposed by the Higher Education Licensure Commission pursuant to section 12(a-1) of the Education Licensure Commission Act of 1976, effective March 16, 1989 (D.C. Law 7-217; D.C. Official Code § 38-1312(a-1)).”.

(12) Subsection (b-11), as added by section 3 of the Relocation Expenses Recoupment and Lien Authority Amendment Act of 2016, effective February 18, 2017 (D.C. Law 21-211; 63 DCR 15307), is amended to read as follows:

“(b-11) This act shall apply to all adjudicated cases involving the reimbursement of emergency housing and relocation assistance arising pursuant to sections 2068c through 2068h of the Office of the Chief Tenant Advocate Establishment Act of 2005, effective February 18, 2017 (D.C. Law 21-211; § 42-3531.01 *et seq.*).”.

(13) Subsection (b-12) is amended to read as follows:

“(b-12) This act shall apply to all adjudicated cases that arise under the Universal Paid Leave Act of 2016, effective April 7, 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 *et seq.*).”.

(14) Subsection (b-11), as added by section 501 of the Fisheries and Wildlife Omnibus Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; 64 DCR 2055), is redesignated as subsection (b-13) and amended to read as follows:

“(b-13) This act shall apply to all adjudicated cases involving the modification, suspension, revocation, or denial of a permit issued pursuant to section 207 of the Fisheries and Wildlife Omnibus Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; D.C. Official Code § 8-1731.07), and all adjudicated cases involving the denial, revocation, or suspension of an authorization pursuant to section 303 of the Fisheries and Wildlife Omnibus

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Amendment Act of 2016, effective May 19, 2017 (D.C. Law 21-282; D.C. Official Code § 8-2231.03).”.

(15) Subsection (b-14) is amended by striking the phrase “In addition to those cases described in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), (b-7), (b-8), (b-9), (b-10), (b-11), (b-12), and (b-13) of this section, this” and inserting the word “This” in its place.

(16) New subsections (b-16) through (b-23) are added to read as follows:

“(b-16) This act shall apply to the following categories of adjudicated cases under the jurisdiction of the Department of Behavioral Health:

“(1) The denial, suspension, conversion, or termination of a license or certification of a mental health rehabilitation services provider, substance abuse provider, or mental health community residence facility pursuant to 22-A DCMR § 3426, 22-A DCMR § 6305, or 22-B DCMR §§ 3106-3113;

“(2) The imposition of a civil fine on a mental health community residence facility or mental health and substance abuse provider pursuant to Chapter 35 of Title 16 of the District of Columbia Municipal Regulations;

“(3) The reduction, suspension, or termination of a supported housing subsidy pursuant to 22-A DCMR § 2218;

“(4) The involuntary discharge, transfer, or relocation of a resident from a mental health community residence facility pursuant to section 303 of the Nursing Home and Community Residence Facility Residents’ Protections Act of 1985, effective April 18, 1986 (D.C. Law 6-8; D.C. Official Code § 44-1003.03);

“(5) A non-Medicaid recoupment action against a mental health and substance abuse provider; and

“(6) All adjudicated cases arising pursuant to section 212(b)(4) of the Mental Health Consumers’ Rights Protection Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.12(b)(4)), granting a fair hearing to any party who is dissatisfied with the outcome of the external review of his or her grievance.”.

“(b-17) This act shall apply to adjudicated cases arising pursuant to the following provisions of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1901.01 *et seq.*):

“(1) The rejection of condominium registration applications and public offering statements pursuant to section 406(c) (D.C. Official Code § 42-1904.06(c));

“(2) Temporary cease and desist orders from unlawful practices pursuant to section 414 (D.C. Official Code § 42-1904.14);

“(3) The revocation of condominium registration pursuant to section 415 (D.C. Official Code § 42-1904.15); and

“(4) Structural defect warranty claims pursuant to section 316 (D.C. Official Code. § 42-1903.16).

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“(b-18) This act shall apply to all adjudicated cases arising pursuant to the following provisions of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*):

“(1) Any petitions for declaratory relief after a showing of reasonable grounds for a hearing pursuant to section 503a (D.C. Official Code § 42-3405.03a);

“(2) The rejection of applications pursuant to section 504 (D.C. Official Code § 42-3405.04);

“(3) Temporary cease and desist orders from unlawful practices pursuant to section 506 (D.C. Official Code § 42-3405.06); and

“(4) The revocation of a certificate or registration pursuant to section 507 (D.C. Official Code § 42-3405.07).

“(b-19) This act shall apply to all adjudicated cases involving the enforcement of administrative civil penalties brought by the Department of Energy and Environment (“DOEE”) pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*), or other law, and to appeals of orders issued by DOEE.

“(b-20) This act shall apply to all adjudicated cases involving the denial or revocation by the Mayor, or the Mayor’s designee, of a notary commission pursuant to 17 DCMR § 2410.

“(b-21) This act shall apply to adjudicated cases arising pursuant to the Day Care Policy Act of 1979, effective September 19, 1979 (D.C. Law 3-16; D.C. Official Code § 4-401 *et seq.*), and the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215; D.C. Official Code § 7-2031 *et seq.*), involving:

“(1) Child care eligibility determinations;

“(2) The licensing and regulatory oversight of child care facilities, including the denial, refusal to renew, restriction, suspension, or revocation of a license; and

“(3) Enforcement actions subject to civil infractions.

“(b-22) This act shall apply to adjudicated cases involving:

“(1) The contested residency status for a student attending District of Columbia Public Schools or District of Columbia public charter schools pursuant to the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (74 Stat. 853; D.C. Official Code § 38-301 *et seq.*);

“(2) Invoice disputes over special education providers pursuant to 5-A DCMR § 2901; and

“(3) The denial of a federal grant application administered by the Office of the State Superintendent of Education pursuant to section 3(b)(18) and (29) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(18) and (29)).

“(b-23) This act shall apply to all adjudicated cases:

“(1) Involving the attachment and levy of personal injury and workers’ compensation settlement funds from insurers participating in the Child Support Services

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Network when the assets are owned by a child support obligor who owes overdue child support pursuant to section 25 of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-224);

“(2) Occurring before any proposed denial, refusal to renew, or revocation of a driver's license and a car registration of a child support obligor by the Mayor, or the Mayor's designee, for the failure to comply with a subpoena or warrant relating to paternity or child support proceedings, or the failure to pay child support pursuant to section 26a(b-2) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 13, 1996 (D.C. Law 11-87; D.C. Official Code § 46-225.01(b-2)); and

“(3) Arising pursuant to section 27c(c) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective April 3, 2001 (D.C. Law 13-269; D.C. Official Code § 46-226.03(c)), involving the attachment and seizure of:

“(A) Assets owned by a child support obligor held in a financial institution or held in a financial institution by another on behalf of the support obligor by the Child Support Services Division of the Office of the Attorney General, or its successor, in order to satisfy child support arrearages; or

“(B) Any settlements, judgments, or other funds.”

(c) Section 11(d) (D.C. Official Code § 2-1831.08(d)) is amended as follows:

(1) The lead-in language is amended by striking the phrase “appointment,” and inserting the phrase “appointment or reappointment,” in its place.

(2) Paragraph (1) is amended by striking the phrase “appointment,” and inserting the phrase “appointment or reappointment,” in its place.

(3) Paragraph (2) is amended by striking the word “appointed” and inserting the phrase “appointed or reappointed” in its place.

(4) Paragraph (3) is amended by striking the word “appointed” and inserting the phrase “appointed or reappointed” in its place.

### Sec. 3. Conforming amendments.

(a) Section 415(b) of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1904.15(b)), is amended by striking the word “agency” and inserting the phrase “Office of Administrative Hearings” in its place.

(b) The Nursing Home and Community Residence Facility Residents' Protections Act of 1985, effective April 18, 1986 (D.C. Law 6-108; D.C. Official Code § 44-1001.01 *et seq.*), is amended as follows:

(1) Section 303(b) (D.C. Official Code § 44-1003.03(b)) is amended by striking the sentence “The Mayor shall hold a hearing at the resident's facility within 5 calendar days, and shall render a decision within 7 calendar days, after a timely hearing request is received.” and inserting the sentences “The Mayor shall hold a hearing at the Office of Administrative Hearings (“OAH”) within 10 calendar days, and OAH shall render a decision within 21 calendar days, after a timely hearing request is received. If the resident is unable to travel to OAH due to a

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physical or mental disability, he or she shall be offered the opportunity to participate remotely through telephone or other means.” in its place.

(2) Section 309(a) (D.C. Official Code § 44-1003.09(a)) is amended by striking the sentence “When a hearing request is submitted by a resident, the hearing shall be held at a location convenient to the resident.”

(c) Section 27c(c) of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective April 3, 2001 (D.C. Law 13-269; D.C. Official Code § 46-226.03(c)), is amended by striking the phrase “before the IV-D agency to contest” and inserting the phrase “before the Office of Administrative Hearings to contest” in its place.

### Sec. 4. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

### Sec. 5. Fiscal impact statement.

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

### Sec. 6. 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

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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.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia