



COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

Charles Allen
Councilmember, Ward 6

Chairperson
Committee on the Judiciary and Public Safety
Co-Chairperson
Special Committee on COVID-19 Pandemic Recovery

Committee Member
Business and Economic Development
Health
Transportation and the Environment

October 27, 2021

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Secretary Smith:

Today, with the unanimous support of my colleagues, I am introducing the “**Expanding Fee Waivers for Low-Income Litigants Act of 2021**”. Please find enclosed a signed copy of the legislation.

As it currently stands in the District of Columbia courts, litigants generally must pay a fee to file motions and papers with the court in civil proceedings. However, recipients of certain social benefit programs – namely Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility, General Assistance for Children, and Supplemental Security Income – can seek approval from the court clerk to proceed without prepayment of fees and costs. All other litigants are often required to complete an extensive and time-consuming fee waiver application that deeply probes their financial situation, and they then must wait to appear before a judge who rules on the application. These applications create additional work for already busy judges and force litigants to navigate a time-intensive and overly burdensome process.

Furthermore, filing fees can be prohibitively expensive, and often they serve to effectively deny litigants access to justice. For example, a homeowner trying to save her home from imminent foreclosure in a pending case must pay a \$60 filing fee for a motion for a temporary restraining order. A domestic violence survivor must pay an \$80 filing fee to file a complaint for custody to keep the survivor’s children safe from the abuser. These filing fees can hinder low-income litigants from asserting their legal rights.

This legislation would significantly expand access to justice by changing the *presumptive* eligibility for waiver of prepayment of court fees and costs to *guaranteed* eligibility for fee waivers in certain cases. It expands the types of litigants who are guaranteed fee waivers to include recipients of Medicaid, Supplemental Nutrition Assistance Program, and Special Supplemental

Nutrition Program for Women, Infants and Children assistance, as well as other public benefits; applicants with monthly income at or below 200% of the federal poverty line; and applicants represented by a legal service or other non-profit organization whose primary purpose is to provide free legal services to low-income clients. This change will reduce the burden on litigants to complete paperwork and on judges to review these applications.


Lastly, the bill provides hearings for applicants who have been denied fee waivers or only granted partial fee waivers. This provision ensures that a litigant seeking a full fee or partial fee waiver has the opportunity to present additional information, argument, and evidence not initially contained in the application to the court.

Sincerely,

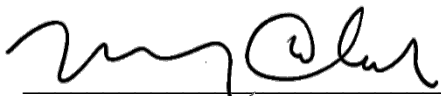
A handwritten signature in blue ink, appearing to read "Charles Allen", with a long horizontal flourish extending to the right.

Charles Allen, Ward 6 Councilmember
Chairperson, Committee on the Judiciary and Public Safety

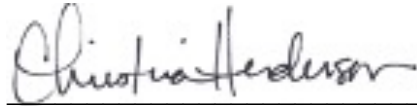
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2 Chairman Phil Mendelson



Councilmember Charles Allen


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6 Councilmember Anita Bonds

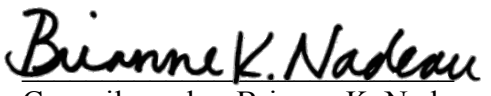

Councilmember Mary M. Cheh


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10 Councilmember Vincent C. Gray


Councilmember Christina Henderson

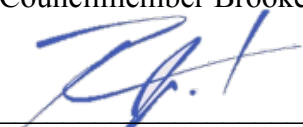
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14 Councilmember Janeese Lewis George


Councilmember Kenyan R. McDuffie

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Councilmember Brooke Pinto

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22 Councilmember Elissa Silverman


Councilmember Robert C. White, Jr.

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26 Councilmember Trayon White, Sr.

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29 A BILL

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34 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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39 To amend Chapter 7 of Title 15 of the District of Columbia Official Code to expand access to
40 justice by changing presumptive eligibility for waiver of prepayment of court fees and
41 costs to guaranteed eligibility for fee waivers and by expanding the category of litigants
42 who are guaranteed fee waivers.

43
44 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
45 act may be cited as the “Expanding Fee Waivers for Low-Income Litigants Act of 2021”.

46 Sec. 2. Section 15-712 of the District of Columbia Official Code is amended to read as
47 follows:

48 “§ 15-712. Waiving court fees and costs.

49 “(a) In any noncriminal suit, action, proceeding, or appeal, any District of Columbia
50 court:

51 “(1) Shall grant a full waiver of payment of fees and costs or security for a litigant
52 if the litigant submits an application with a declaration stating that:

53 “(A) The litigant, or if the litigant is asserting a claim on behalf of the
54 dependent, the litigant’s dependent, receives financial assistance from one or more of the
55 following programs established under District law:

56 “(i) D.C. HealthCare Alliance, established pursuant to § 7-1405;

57 “(ii) General Assistance for Children programs, established
58 pursuant to § 4-202.01;

59 “(iii) Grandparent Caregivers Program Subsidy, established
60 pursuant to § 4-251.02;

61 “(iv) The “Home First” Program, established pursuant to § 42-
62 2802(b-1)(3);

63 “(v) Interim Disability Assistance, established pursuant to § 4-
64 202.01;

65 “(vi) Permanent Supportive Housing, established pursuant to § 4-
66 753.01(b)(4)(A);

67 “(vii) Program on Work, Employment, and Responsibility,
68 established pursuant to § 4-202.01;

69 “(viii) Rapid Re-Housing/Family Re-Housing Stabilization
70 Program, established pursuant to § 4-753.01(b)(4)(B);

71 “(ix) Rent Supplement Program, established pursuant to § 6-226;

72 “(x) Targeted Affordable Housing, established pursuant to § 42-
73 2802(b-1)(3); or

74 “(xi) Temporary Assistance for Needy Families, established
75 pursuant to § 4-202.01; or

76 “(B) The litigant, or if the litigant is asserting a claim on behalf of the
77 dependent, the litigant’s dependent, receives financial assistance from one or more of the
78 following programs established under federal law:

79 “(i) Child Care Subsidy Program, established pursuant to 42
80 U.S.C. § 9858 *et seq.*;

81 “(ii) Free and Reduced-priced Meals, established pursuant to 42
82 U.S.C. §§ 1772 (a)(6), 1773(e)(1)(A);

83 “(iii) Head Start Program, established pursuant to 42 U.S.C. § 9801
84 *et seq.*;

85 “(iv) Housing Choice Voucher Program, established pursuant to 42
86 U.S.C. § 1437f *et seq.*;

87 “(v) Low Income Home Energy Assistance Program, established
88 pursuant to 42 U.S.C. §§ 8621 – 8630;

89 “(vi) Medicaid, established pursuant to 42 U.S.C. § 1396 *et seq.*;

90 “(vii) Poverty-related veterans’ benefits, including:

91 “(I) Veterans’ Pensions or Pensions to Surviving Spouses
92 and Children under Chapter 15 of Title 38 of the United States Code; or

93 “(II) Benefits for homeless veterans under Chapter 20 of
94 Title 38 of the United States Code, including Domiciliary Care for Homeless Veterans, Health
95 Care for Homeless Veterans, U.S. Department of Housing and Urban Development-Veterans’
96 Affairs Supportive Housing (HUD-VASH), Supportive Services for Veteran Families, and
97 Homeless Veterans Community Employment Services;

98 “(viii) Project-Based Section 8 Rental Assistance, established
99 pursuant to 42 U.S.C. § 1437f *et seq.*;

100 “(ix) Public Housing, established pursuant to 42 U.S.C. § 1437 *et*
101 *seq.*;

102 “(x) Qualified Medicare Beneficiary, established pursuant to 42
103 U.S.C. § 1396d;

104 “(xi) Section 202 Supportive Housing for the Elderly Program,
105 established pursuant to 12 U.S.C. § 1701q;

106 “(xii) Section 811 Housing for Persons with Disabilities Program,
107 established pursuant to 42 U.S.C. § 8013;

108 “(xiii) Special Supplemental Nutrition Program for Women,
109 Infants and Children, established pursuant to 42 U.S.C. § 1786;

110 “(xiv) Supplemental Nutrition Assistance Program, established
111 pursuant to 7 U.S.C. § 2011 *et seq.*;

112 “(xv) Supplemental Security Income under Title XVI of the Social
113 Security Act, established pursuant to 42 U.S.C. § 1381 *et seq.*; or

114 “(xvi) Veterans Affairs Supportive Housing, established pursuant
115 to 42 U.S.C. § 1437f(o)(19); or

116 “(C) The litigant’s monthly income does not exceed 200% of the federal
117 poverty guidelines issued by the United States Department of Health and Human Services; or

118 “(D) The litigant is represented free of charge by a legal services or other
119 nonprofit organization whose primary purpose is to provide legal services to low-income clients;
120 and

121 “(2) May grant a full or partial waiver of payment of fees and costs or security for
122 a litigant not otherwise eligible for a waiver pursuant to paragraph (1) of this subsection if that
123 litigant submits a declaration or other proof satisfactory to the court that the litigant is unable to
124 proceed without substantial hardship to themselves or their dependent.

125 “(b) The court may:

126 “(1) Require additional evidence in support of an application for a waiver of
127 payment of fees and costs or security if:

128 “(A) An application is submitted pursuant to subsection (a)(2);

129 “(B) There is good cause to believe that the information submitted by the
130 litigant is inaccurate or misleading; or

131 “(C) The litigant has undergone a change in circumstances; and

132 “(2) Delegate to the clerk of the court the authority to grant full waivers of
133 payment of fees and costs or security but not to deny or partially grant full waivers of payment of
134 fees and costs or security.

135 “(c)(1) If a completed application for a waiver of payment of fees and costs or security is
136 presented in open court, the court shall rule on the application immediately.

137 “(2)(A) If a completed application is presented to the court and not approved
138 immediately pursuant to paragraph (1) of this subsection, within 5 calendar days after receiving

139 the application, the court shall decide whether to grant a full waiver of payment of fees and costs
140 or security pursuant to subsection (a) of this section.

141 “(B) If, within 5 calendar days after receiving a complete application, the
142 court has not ruled on the application, the litigant shall be granted a full waiver of payment of
143 fees and costs or security.

144 “(3) If the court denies an application or grants only a partial waiver, the court
145 shall state the reasons for the denial or partial grant in writing or on the record in the presence of
146 the litigant or the litigant’s counsel.

147 “(4)(A)(i) Any litigant who is denied a waiver or granted only a partial waiver
148 may request a hearing on the matter, at which time the litigant shall be allowed to present
149 additional information, argument, and evidence.

150 “(ii) A hearing requested pursuant to this subparagraph shall be
151 scheduled no later than 14 calendar days after receiving the request.

152 “(B) In any hearing requested pursuant to subparagraph (A) of this
153 paragraph, the court shall provide a mechanism to permit a litigant to submit or testify to
154 financial information confidentially.

155 “(5) An incomplete application made pursuant to this section shall be returned to
156 the litigant with notice from the court as to which information is missing from the application
157 and without prejudice to the litigant to resubmit a complete application.

158 “(6) In deciding whether to grant or deny an application for waiver of payment of
159 fees and costs or security pursuant to this section, the court shall not consider the merit of the
160 underlying suit, action, proceeding, or appeal.

161 “(d)(1) The court shall keep an application and any financial information provided by a
162 litigant confidential except to the court, authorized court personnel, and persons authorized by
163 the litigant.

164 “(2)(A) Any person seeking access to an application or financial information
165 provided to the court by a litigant must make the request by a noticed motion, supported by a
166 declaration showing good cause for why the confidential information should be released to the
167 movant.

168 “(B) A court order granting access to an application or financial
169 information provided by a litigant may limit who may access its contents and the use of its
170 contents after the application or financial information has been disclosed.

171 “(3) No person shall reveal any information contained in an application except as
172 otherwise authorized by law or order of the court.

173 “(4) The court’s decision to grant or deny any application for a waiver shall not be
174 confidential.

175 “(e) The court shall not impose a fee for:

176 “(1) Submitting an application for a waiver of payment of fees and costs or
177 security under this section; or

178 “(2) Filing any papers related to filing an application for a waiver of payment of
179 fees and costs or security, unless the court has already considered and denied a previous
180 application for a waiver by the litigant in the same suit, action, proceeding, or appeal.

181 “(f)(1) For all persons granted full waivers of payment of fees and costs or security and
182 where ordered by the court when granting partial waivers of payment of fees and costs or
183 security, the clerk shall attempt service.

184 “(2) Where the defendant is not a minor or adjudicated incompetent, the clerk
185 shall attempt to serve the defendant with the summons, a copy of the complaint, and, if
186 applicable, the initial order, any addendum to the initial order, and any other order directed by
187 the court to the parties at the time of filing by:

188 “(A) Registered or certified mail, return receipt requested;

189 “(B) First-class mail with notice and acknowledgment; or

190 “(C) Both.

191 “(3) Where the defendant is a minor or adjudicated incompetent, the court may,
192 on motion, appoint a person to serve the summons, a copy of the complaint, and, if applicable,
193 the initial order, any addendum to the initial order, and any other order directed by the court to
194 the parties at the time of filing.

195 “(4) On motion, the court may, in its discretion, appoint a person to serve witness
196 subpoenas. Witnesses will be subpoenaed without prepayment of witness fees, and the same
197 remedies will be available as are provided for by law in other cases.”.

198 Sec. 3. Fiscal impact statement.

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

202 Sec. 4. Effective date.

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