

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend section 15-712 of the District of Columbia Official Code to expand access to justice by changing presumptive eligibility for waiver of prepayment of court fees and costs to guaranteed eligibility for waiver of court fees and costs and by expanding the categories of litigants who are guaranteed fee waivers, to permit the court to delegate authority to grant full waivers of court fees and costs to the clerk of the court, to set a timeframe by which the court shall rule on an application, to require the court to treat any financial information submitted with an application as confidential, to prohibit the court from levying fees associated with submitting an application, to prescribe procedures for the court to assist in the service of process for those litigants granted a full or partial waiver, to prescribe procedures for the court to assist in the serving of witness subpoenas for those litigants granted a full or partial waiver, and to prescribe procedures for litigants seeking transcripts or other documents.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Expanding Fee Waivers for Low-Income Litigants Amendment Act of 2022”.

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

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

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

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

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

“(i) Close Relative Caregiver Pilot Program, established pursuant to § 4-251.22;

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

251.02(a);
1131.04(8);
753.01(b)(4)(A);
established by § 4-205.72(a);
753.01(b)(4)(B);
226(c)(3); or
4-202.01;

“(iii) General Assistance for Children, established by § 4-205.05a;
“(iv) Grandparent Caregivers Program, established pursuant to § 4-
“(v) The “Home First” Program, established pursuant to § 7-
“(vi) Interim Disability Assistance, established by § 4-204.07;
“(vii) Permanent Supportive Housing, established pursuant to § 4-
“(viii) Program on Work, Employment, and Responsibility,
“(ix) Rapid Re-Housing Program, established pursuant to § 4-
“(x) Rent Supplement Program, established by to § 6-226(a);
“(xi) Targeted Affordable Housing, established pursuant to § 6-
“(xii) Temporary Assistance for Needy Families, established by §

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

U.S.C. § 9857 *et seq.*;

“(i) Child Care Subsidy Program, established pursuant to 42
“(ii) Domiciliary Care for Homeless Veterans, established pursuant to Chapter 20 of Title 38 of the United States Code;
“(iii) Free and Reduced-priced Meals, established pursuant to 42 U.S.C. §§ 1758(b)(1), 1766(c)(4), 1772 (a)(6), and 1773(e)(1)(A);
“(iv) Head Start Program, established pursuant to 42 U.S.C. § 9831 *et seq.*;

“(v) Health Care for Homeless Veterans, established pursuant to Chapter 20 of Title 38 of the United States Code;
“(vi) Homeless Veteran Community Employment Services Program, established pursuant to Chapter 20 of Title 38 of the United States Code;
“(vii) Housing Choice Voucher Program, established pursuant to 42 U.S.C. § 1437f;
“(viii) Low Income Home Energy Assistance Program, established pursuant to 42 U.S.C. § 8621 *et seq.*;

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

“(x) Project-Based Section 8 Rental Assistance, established pursuant to 42 U.S.C. § 1437f;

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

“(xii) Qualified Medicare Beneficiary Program, established pursuant to 42 U.S.C. § 1396d;

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

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

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

“(xvi) Supplemental Nutrition Assistance Program, established pursuant to 7 U.S.C. § 2013;

“(xvii) Supplemental Security Income, established pursuant to 42 U.S.C. § 1381 *et seq.*;

“(xviii) Supportive Services for Veteran Families, established pursuant to Chapter 20 of Title 38 of the United States Code;

“(xix) Social Security Disability Insurance, established by 42 U.S.C. § 423;

“(xx) U.S. Department of Housing and Urban Affairs – Veterans’ Affairs Supportive Housing (HUD-VASH) Program, established pursuant to Chapter 20 of Title 38 of the United States Code;

“(xxi) Veterans Affairs Supportive Housing, established by 42 U.S.C. § 1437f(o)(19); or

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

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

“(D) The litigant is represented free of charge by a legal services or other nonprofit organization whose primary purpose is to provide legal services to low-income clients, or a legal clinic operated by a law school located in the District that provides legal services to low-income clients; and

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

“(b) The court may:

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

“(A) An application is submitted pursuant to subsection (a)(2) of this section;

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

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

“(2) Delegate to the clerk of the court the authority to grant waivers of payment of fees and costs or security under this section; except, that the decision to deny an application, or to grant a partial waiver, shall be made by a judge.

“(c)(1)(A) If a completed application is presented to the court, within 5 calendar days after receiving the application, the court shall decide whether to grant a waiver of payment of fees and costs or security; except, that, when a completed application is presented to a judge in open court, the judge shall rule on the application immediately.

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

“(C) The deadlines described in this paragraph shall not apply where the court requires additional information under subsection (b)(1) of this section.

“(2) If the court denies an application or grants only a partial waiver, the court shall state the reasons for the denial or partial grant in writing or in open court only to the litigant.

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

“(ii) The court shall hold a hearing requested pursuant to this subparagraph no later than 14 calendar days after receiving the request.

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

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

“(5) In considering an application for waiver of payment of fees and costs or security pursuant to this section, the court shall not consider the merit of the underlying suit, action, proceeding, or appeal.

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

“(2)(A) Any person seeking access to an application or financial information provided to the court by a litigant may file a motion, with notice given to the litigant who filed the application, supported by a declaration showing good cause for why the confidential information should be released to the movant.

“(B) Any person who is granted access to an application or financial information under this paragraph shall not reveal any information contained in an application or financial information except as otherwise authorized by law or court order.

“(3) The court’s decision on an application for a waiver shall not be confidential.

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

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

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

“(3) Filing any motions, papers, or documents submitted simultaneously with an application for a waiver of payment of fees and costs or security unless and until the court considers and denies the application for a waiver of payment of fees and costs or security.

“(f)(1) For all persons granted full waivers of payment of fees and costs or security, and where ordered by the court when granting partial waivers of payment of fees and costs or security, the clerk shall attempt service of the complaint in a manner prescribed by the court’s rules and record the date and method of service on the docket.

“(2) For the purposes of this subsection, the term “complaint” means the summons, a copy of the complaint, the initial order setting the case for an initial scheduling and settlement conference, any addendum to that order, and any other order directed by the court to the parties at the time of filing. The term “complaint” does not include a petition filed in the Family, Tax, or Probate Division of the Superior Court of the District of Columbia.

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

“(h)(1) A litigant who has received a full waiver of fees and costs or security, or where permitted by the court in a partial waiver of payment of fees and costs or security, may file a motion requesting free transcripts or other documents explaining the basis for the motion.

“(2) The court shall grant a motion filed pursuant to paragraph (1) of this subsection unless the court determines that the reason for the request is frivolous. In making this determination, the court shall resolve any doubt about the frivolousness of the request in favor of the litigant.

“(3) In granting a motion filed pursuant to paragraph (1) of this subsection, the court may limit the transcripts or other documents provided to the litigant to those transcripts or other documents that are necessary for resolution of the suit, action, proceeding, or appeal.”.

Sec. 3. 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).

ENROLLED ORIGINAL

Sec. 4. 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.

Chairman
Council of the District of Columbia

Mayor
District of Columbia