

Calendar No. 436

112TH CONGRESS
2^D SESSION

S. 1379

[Report No. 112-178]

To amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, and to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2011

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JUNE 25, 2012

Reported by Mr. LIEBERMAN, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, and to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “D.C. Courts and Public
 5 Defender Service Act of 2011”.

6 **SEC. 2. AUTHORITIES OF DISTRICT OF COLUMBIA COURTS.**

7 (a) PERMITTING JUDICIAL CONFERENCE ON BIEN-
 8 NIAL BASIS; ATTENDANCE OF MAGISTRATE JUDGES.—
 9 Section 11–744, District of Columbia Official Code, is
 10 amended—

11 (1) in the first sentence, by striking “annually”
 12 and inserting “biennially or annually”;

13 (2) in the first sentence, by striking “active
 14 judges” and inserting “active judges and magistrate
 15 judges”;

16 (3) in the third sentence, by striking “Every
 17 judge” and inserting “Every judge and magistrate
 18 judge”; and

19 (4) in the third sentence, by striking “Courts of
 20 Appeals” and inserting “Court of Appeals”.

21 (b) EMERGENCY AUTHORITY TO TOLL OR DELAY
 22 JUDICIAL PROCEEDINGS.—

23 (1) PROCEEDINGS IN SUPERIOR COURT.—

24 (A) IN GENERAL.—Subchapter III of
 25 Chapter 9 of title 11, District of Columbia Offi-

1 cial Code, is amended by adding at the end the
2 following new section:

3 **“§ 11-947. Emergency authority to toll or delay pro-**
4 **ceedings.**

5 “(a) TOLLING OR DELAYING PROCEEDINGS.—

6 “(1) IN GENERAL.—In the event of a natural
7 disaster or other emergency situation requiring the
8 closure of Superior Court or rendering it impracti-
9 cable for the United States or District of Columbia
10 Government or a class of litigants to comply with
11 deadlines imposed by any Federal or District of Co-
12 lumbia law or rule that applies in the Superior
13 Court, the chief judge of the Superior Court may ex-
14 ercise emergency authority in accordance with this
15 section.

16 “(2) SCOPE OF AUTHORITY.—(A) The chief
17 judge may enter such order or orders as may be ap-
18 propriate to delay, toll, or otherwise grant relief
19 from the time deadlines imposed by otherwise appli-
20 cable laws or rules for such period as may be appro-
21 priate for any class of cases pending or thereafter
22 filed in the Superior Court.

23 “(B) The authority conferred by this section ex-
24 tends to all laws and rules affecting criminal and ju-
25 venile proceedings (including, pre-arrest, post-arrest,

1 pretrial, trial, and post-trial procedures) and civil,
2 family, domestic violence, probate and tax pro-
3 ceedings.

4 “(3) UNAVAILABILITY OF CHIEF JUDGE.—If
5 the chief judge of the Superior Court is absent or
6 disabled, the authority conferred by this section may
7 be exercised by the judge designated under section
8 11–907(a) or by the Joint Committee on Judicial
9 Administration.

10 “(4) HABEAS CORPUS UNAFFECTED.—Nothing
11 in this section shall be construed to authorize sus-
12 pension of the writ of habeas corpus.

13 “(b) CRIMINAL CASES.—In exercising the authority
14 under this section for criminal cases, the chief judge shall
15 consider the ability of the United States or District of Co-
16 lumbia Government to investigate, litigate, and process de-
17 fendants during and after the emergency situation, as well
18 as the ability of criminal defendants as a class to prepare
19 their defenses.

20 “(c) ISSUANCE OF ORDERS.—The United States At-
21 torney for the District of Columbia or the Attorney Gen-
22 eral for the District of Columbia or the designee of either
23 may request issuance of an order under this section, or
24 the chief judge may act on his or her own motion.

1 “(d) DURATION OF ORDERS.—An order entered
2 under this section may not toll or extend a time deadline
3 for a period of more than 14 days, except that if the chief
4 judge determines that an emergency situation requires ad-
5 ditional extensions of the period during which deadlines
6 are tolled or extended, the chief judge may, with the con-
7 sent of the Joint Committee on Judicial Administration,
8 enter additional orders under this section in order to fur-
9 ther toll or extend such time deadline.

10 “(e) NOTICE.—Upon issuing an order under this sec-
11 tion, the chief judge—

12 “(1) shall make all reasonable efforts to pub-
13 licize the order, including, when possible, announcing
14 the order on the District of Columbia Courts Web
15 site; and

16 “(2) shall send notice of the order, including
17 the reasons for the issuance of the order, to the
18 Committee on Homeland Security and Governmental
19 Affairs of the Senate and the Committee on Over-
20 sight and Government Reform of the House of Rep-
21 resentatives.

22 “(f) REQUIRED REPORTS.—Not later than 180 days
23 after the expiration of the last extension or tolling of a
24 time period made by the order or orders relating to an
25 emergency situation, the chief judge shall submit a brief

1 report to the Committee on Homeland Security and Gov-
 2 ernmental Affairs of the Senate, the Committee on Over-
 3 sight and Government Reform of the House of Represent-
 4 atives, and the Joint Committee on Judicial Administra-
 5 tion describing the orders, including—

- 6 “(1) the reasons for issuing the orders;
- 7 “(2) the duration of the orders;
- 8 “(3) the effects of the orders on litigants; and
- 9 “(4) the costs to the court resulting from the
- 10 orders.

11 “(g) EXCEPTIONS.—The notice under subsection
 12 (e)(2) and the report under subsection (f) are not required
 13 in the case of an order that tolls or extends a time deadline
 14 for a period of less than 14 days.”.

15 (B) CLERICAL AMENDMENT.—The table of
 16 contents of chapter 9 of title 11, District of Co-
 17 lumbia Official Code, is amended by adding at
 18 the end of the items relating to subchapter III
 19 the following:

“11–947. Emergency authority to toll or delay proceedings.”.

20 (2) PROCEEDINGS IN COURT OF APPEALS.—

21 (A) IN GENERAL.—Subchapter III of chap-
 22 ter 7 of title 11, District of Columbia Official
 23 Code, is amended by adding at the end the fol-
 24 lowing new section:

1 **“§ 11-745. Emergency authority to toll or delay pro-**
2 **ceedings.**

3 “(a) TOLLING OR DELAYING PROCEEDINGS.—

4 “(1) IN GENERAL.—In the event of a natural
5 disaster or other emergency situation requiring the
6 closure of the Court of Appeals or rendering it im-
7 practicable for the United States or District of Co-
8 lumbia Government or a class of litigants to comply
9 with deadlines imposed by any Federal or District of
10 Columbia law or rule that applies in the Court of
11 Appeals, the chief judge of the Court of Appeals
12 may exercise emergency authority in accordance with
13 this section.

14 “(2) SCOPE OF AUTHORITY.—The chief judge
15 may enter such order or orders as may be appro-
16 priate to delay, toll, or otherwise grant relief from
17 the time deadlines imposed by otherwise applicable
18 laws or rules for such period as may be appropriate
19 for any class of cases pending or thereafter filed in
20 the Court of Appeals.

21 “(3) UNAVAILABILITY OF CHIEF JUDGE.—If
22 the chief judge of the Court of Appeals is absent or
23 disabled, the authority conferred by this section may
24 be exercised by the judge designated under section
25 11-706(a) or by the Joint Committee on Judicial
26 Administration.

1 “(4) HABEAS CORPUS UNAFFECTED.—Nothing
 2 in this section shall be construed to authorize sus-
 3 pension of the writ of habeas corpus.

4 “(b) ISSUANCE OF ORDERS.—The United States At-
 5 torney for the District of Columbia or the Attorney Gen-
 6 eral for the District of Columbia or the designee of either
 7 may request issuance of an order under this section, or
 8 the chief judge may act on his or her own motion.

9 “(c) DURATION OF ORDERS.—An order entered
 10 under this section may not toll or extend a time deadline
 11 for a period of more than 14 days, except that if the chief
 12 judge determines that an emergency situation requires ad-
 13 ditional extensions of the period during which deadlines
 14 are tolled or extended, the chief judge may, with the con-
 15 sent of the Joint Committee on Judicial Administration,
 16 enter additional orders under this section in order to fur-
 17 ther toll or extend such time deadline.

18 “(d) NOTICE.—Upon issuing an order under this sec-
 19 tion, the chief judge—

20 “(1) shall make all reasonable efforts to pub-
 21 licize the order, including, when possible, announcing
 22 the order on the District of Columbia Courts Web
 23 site; and

24 “(2) shall send notice of the order, including
 25 the reasons for the issuance of the order, to the

1 Committee on Homeland Security and Governmental
2 Affairs of the Senate and the Committee on Over-
3 sight and Government Reform of the House of Rep-
4 resentatives.

5 “(e) REQUIRED REPORTS.—Not later than 180 days
6 after the expiration of the last extension or tolling of a
7 time period made by the order or orders relating to an
8 emergency situation, the chief judge shall submit a brief
9 report to the Committee on Homeland Security and Gov-
10 ernmental Affairs of the Senate, the Committee on Over-
11 sight and Government Reform of the House of Represent-
12 atives, and the Joint Committee on Judicial Administra-
13 tion describing the orders, including—

14 “(1) the reasons for issuing the orders;
15 “(2) the duration of the orders;
16 “(3) the effects of the orders on litigants; and
17 “(4) the costs to the court resulting from the
18 orders.

19 “(f) EXCEPTIONS.—The notice under subsection
20 (d)(2) and the report under subsection (e) are not required
21 in the case of an order that tolls or extends a time deadline
22 for a period of less than 14 days.”.

23 (B) CLERICAL AMENDMENT.—The table of
24 contents of chapter 7 of title 11, District of Co-
25 lumbia Official Code, is amended by adding at

1 the end of the items relating to subchapter III
 2 the following:

“11–745. Emergency authority to toll or delay proceedings.”.

3 ~~(e)~~ AUTHORIZATION FOR PROGRAM OF VOLUNTARY
 4 SEPARATION INCENTIVE PAYMENTS.—

5 ~~(1)~~ IN GENERAL.—Chapter 17 of title 11, Dis-
 6 trict of Columbia Official Code, is amended by in-
 7 serting after section 11–1726 the following new sec-
 8 tion:

9 “§ 11–1726A. Voluntary Separation Incentive Pay-
 10 ments

11 “The Joint Committee on Judicial Administration
 12 may, by regulation, establish a program substantially simi-
 13 lar to the program established under subchapter II of
 14 chapter 35 of title 5, United States Code, for nonjudicial
 15 employees of the District of Columbia courts.”.

16 ~~(2)~~ CLERICAL AMENDMENT.—The table of con-
 17 tents of chapter 17 of title 11, District of Columbia
 18 Official Code, is amended by inserting after the item
 19 relating to section 11–1726 the following new item:

“11–1726A. Voluntary separation incentive payments.”.

20 ~~(d)~~(c) PERMITTING AGREEMENTS TO PROVIDE
 21 SERVICES ON A REIMBURSABLE BASIS TO OTHER DIS-
 22 TRICT GOVERNMENT OFFICES.—

1 (1) IN GENERAL.—Section 11–1742, District of
2 Columbia Official Code, is amended by adding at the
3 end the following new subsection:

4 “(d) To prevent duplication and to promote efficiency
5 and economy, the Executive Officer may enter into agree-
6 ments to provide the Mayor of the District of Columbia
7 with equipment, supplies, and services and credit reim-
8 bursements received from the Mayor for such equipment,
9 supplies, and services to the appropriation of the District
10 of Columbia Courts against which they were charged.”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall apply with respect to fiscal
13 year 2010 and each succeeding fiscal year.

14 **SEC. 3. LIABILITY INSURANCE FOR PUBLIC DEFENDER**
15 **SERVICE.**

16 Section 307 of the District of Columbia Court Re-
17 form and Criminal Procedure Act of 1970 (sec. 2–1607,
18 D.C. Official Code) is amended by adding at the end the
19 following new subsection:

20 “(e) The Service shall, to the extent the Director con-
21 siders appropriate, provide representation for and hold
22 harmless, or provide liability insurance for, any person
23 who is an employee, member of the Board of Trustees,
24 or officer of the Service for money damages arising out
25 of any claim, proceeding, or case at law relating to the

1 furnishing of representational services or management
 2 services or related services under this Act while acting
 3 within the scope of that person's office or employment,
 4 including but not limited to such claims, proceedings, or
 5 cases at law involving employment actions, injury, loss of
 6 liberty, property damage, loss of property, or personal in-
 7 jury, or death arising from malpractice or negligence of
 8 any such officer or employee.”.

9 **SEC. 4. REDUCTION IN TERM OF SERVICE OF JUDGES ON**
 10 **FAMILY COURT OF THE SUPERIOR COURT.**

11 (a) REDUCTION IN TERM OF SERVICE.—Section 11–
 12 908A(c)(1), District of Columbia Official Code, is amend-
 13 ed by striking “5 years” and inserting “3 years”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall apply with respect to any individual
 16 serving as a judge on the Family Court of the Superior
 17 Court of the District of Columbia on or after the date of
 18 the enactment of this Act.

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