

111TH CONGRESS
2^D SESSION

H. R. 5367

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2010

Received

DECEMBER 22, 2010

Read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, 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, and for other purposes.

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 2010”.

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 a natural disaster or
9 other emergency situation rendering it impracticable
10 for the United States or District of Columbia Gov-
11 ernment or a class of litigants to comply with dead-
12 lines imposed by any Federal or District of Colum-
13 bia law or rule that applies in the Superior Court,
14 the chief judge of the Superior Court may exercise
15 emergency authority in accordance with this 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 “(5) DEFINITIONS.—For purposes of this sub-
14 section—

15 “(A) the term ‘natural disaster’ means any
16 natural catastrophe (including any hurricane,
17 tornado, storm, high water, wind-driven water,
18 tidal wave, tsunami, earthquake, volcanic erup-
19 tion, landslide, mudslide, snowstorm, or
20 drought), or, regardless of cause, any fire,
21 flood, or explosion; and

22 “(B) the term ‘other emergency situation’
23 includes but is not limited to any occasion or
24 instance of terrorism, enemy attack, sabotage,
25 other hostile action, disease, or any manmade

1 cause which results in an imminent threat, se-
2 vere damage, or injury to life or property, or
3 loss thereof, or results in the destruction of or
4 severe damage to a court house, or impairs the
5 ability to access a courthouse, or the ability to
6 staff the courts.

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

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

19 “(d) DURATION OF ORDERS.—An order entered
20 under this section may not toll or extend a time deadline
21 for a period of more than 14 days, except that if the chief
22 judge determines that an emergency situation requires ad-
23 ditional extensions of the period during which deadlines
24 are tolled or extended, the chief judge may, with the con-
25 sent of the Joint Committee on Judicial Administration,

1 enter additional orders under this section in order to fur-
2 ther toll or extend such time deadline.

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

5 “(1) shall make all reasonable efforts to pub-
6 licize the order, including, when possible, announcing
7 the order on the District of Columbia Courts web
8 site; and

9 “(2) shall send notice of the order, including
10 the reasons for the issuance of the order, to the
11 Committee on Homeland Security and Governmental
12 Affairs of the Senate and the Committee on Over-
13 sight and Government Reform of the House of Rep-
14 resentatives.

15 “(f) REQUIRED REPORTS.—Not later than 180 days
16 after the expiration of the last extension or tolling of a
17 time period made by the order or orders relating to an
18 emergency situation, the chief judge shall submit a brief
19 report to the Committee on Homeland Security and Gov-
20 ernmental Affairs of the Senate, the Committee on Over-
21 sight and Government Reform of the House of Represent-
22 atives, and the Joint Committee on Judicial Administra-
23 tion describing the orders, including—

24 “(1) the reasons for issuing the orders;

25 “(2) the duration of the orders;

1 “(3) the effects of the orders on litigants; and

2 “(4) the costs to the court resulting from the
3 orders.

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

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

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

13 (2) PROCEEDINGS IN COURT OF APPEALS.—

14 (A) IN GENERAL.—Subchapter III of
15 Chapter 7 of title 11, District of Columbia Offi-
16 cial Code, is amended by adding at the end the
17 following new section:

18 **“§ 11–745. Emergency authority to toll or delay pro-**
19 **ceedings.**

20 “(a) TOLLING OR DELAYING PROCEEDINGS.—

21 “(1) IN GENERAL.—In the event of a natural
22 disaster or other emergency situation requiring the
23 closure of the Court of Appeals or a natural disaster
24 or other emergency situation rendering it impracti-
25 cable for the United States or District of Columbia

1 Government or a class of litigants to comply with
2 deadlines imposed by any Federal or District of Co-
3 lumbia law or rule that applies in the Court of Ap-
4 peals, the chief judge of the Court of Appeals may
5 exercise emergency authority in accordance with this
6 section.

7 “(2) SCOPE OF AUTHORITY.—The chief judge
8 may enter such order or orders as may be appro-
9 priate to delay, toll, or otherwise grant relief from
10 the time deadlines imposed by otherwise applicable
11 laws or rules for such period as may be appropriate
12 for any class of cases pending or thereafter filed in
13 the Court of Appeals.

14 “(3) UNAVAILABILITY OF CHIEF JUDGE.—If
15 the chief judge of the Court of Appeals is absent or
16 disabled, the authority conferred by this section may
17 be exercised by the judge designated under section
18 11–706(a) or by the Joint Committee on Judicial
19 Administration.

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

23 “(5) DEFINITIONS.—For purposes of this sub-
24 section—

1 “(A) the term ‘natural disaster’ means any
2 natural catastrophe (including any hurricane,
3 tornado, storm, high water, wind-driven water,
4 tidal wave, tsunami, earthquake, volcanic erup-
5 tion, landslide, mudslide, snowstorm, or
6 drought), or, regardless of cause, any fire,
7 flood, or explosion; and

8 “(B) the term ‘other emergency situation’
9 includes but is not limited to any occasion or
10 instance of terrorism, enemy attack, sabotage,
11 other hostile action, disease, or any manmade
12 cause which results in an imminent threat, se-
13 vere damage, or injury to life or property, or
14 loss thereof, or results in the destruction of or
15 severe damage to a court house, or impairs the
16 ability to access a courthouse, or the ability to
17 staff the courts.

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

23 “(c) DURATION OF ORDERS.—An order entered
24 under this section may not toll or extend a time deadline
25 for a period of more than 14 days, except that if the chief

1 judge determines that an emergency situation requires ad-
2 ditional extensions of the period during which deadlines
3 are tolled or extended, the chief judge may, with the con-
4 sent of the Joint Committee on Judicial Administration,
5 enter additional orders under this section in order to fur-
6 ther toll or extend such time deadline.

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

9 “(1) shall make all reasonable efforts to pub-
10 licize the order, including, when possible, announcing
11 the order on the District of Columbia Courts web
12 site; and

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

19 “(e) REQUIRED REPORTS.—Not later than 180 days
20 after the expiration of the last extension or tolling of a
21 time period made by the order or orders relating to an
22 emergency situation, the chief judge shall submit a brief
23 report to the Committee on Homeland Security and Gov-
24 ernmental Affairs of the Senate, the Committee on Over-
25 sight and Government Reform of the House of Represent-

1 atives, and the Joint Committee on Judicial Administra-
 2 tion describing the orders, including—

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

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

12 (B) CLERICAL AMENDMENT.—The table of
 13 contents of chapter 7 of title 11, District of Co-
 14 lumbia Official Code, is amended by adding at
 15 the end of the items relating to subchapter III
 16 the following:

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

17 (c) PERMITTING AGREEMENTS TO PROVIDE SERV-
 18 ICES ON A REIMBURSABLE BASIS TO OTHER DISTRICT
 19 GOVERNMENT OFFICES.—

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

23 “(d) To prevent duplication and to promote efficiency
 24 and economy, the Executive Officer may enter into agree-
 25 ments to provide the Mayor of the District of Columbia

1 with equipment, supplies, and services and credit reim-
2 bursements received from the Mayor for such equipment,
3 supplies, and services to the appropriation of the District
4 of Columbia Courts against which they were charged.”.

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

8 **SEC. 3. LIABILITY INSURANCE FOR PUBLIC DEFENDER**
9 **SERVICE.**

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

14 “(e) The Service shall, to the extent the Director con-
15 siderers appropriate, provide representation for and hold
16 harmless, or provide liability insurance for, any person
17 who is an employee, member of the Board of Trustees,
18 or officer of the Service for money damages arising out
19 of any claim, proceeding, or case at law relating to the
20 furnishing of representational services or management
21 services or related services under this Act while acting
22 within the scope of that person’s office or employment,
23 including but not limited to such claims, proceedings, or
24 cases at law involving employment actions, injury, loss of
25 liberty, property damage, loss of property, or personal in-

1 jury, or death arising from malpractice or negligence of
2 any such officer or employee.”.

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

5 (a) REDUCTION IN TERM OF SERVICE.—Section 11–
6 908A(c)(1), District of Columbia Official Code, is amend-
7 ed by striking “5 years” and inserting “3 years”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply with respect to any individual
10 serving as a judge on the Family Court of the Superior
11 Court of the District of Columbia on or after the date of
12 the enactment of this Act.

Passed the House of Representatives November 16,
2010.

Attest: LORRAINE C. MILLER,
Clerk.