

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 2.
GOVERNMENT ADMINISTRATION.

CHAPTER 16.
PUBLIC DEFENDER SERVICE.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 16. PUBLIC DEFENDER SERVICE.

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CHAPTER 16. PUBLIC DEFENDER SERVICE.

§ 2-1601. REDESIGNATION OF LEGAL AID AGENCY AS PUBLIC DEFENDER SERVICE.

The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereafter in this chapter referred to as the "Service").

(July 29, 1970, 84 Stat. 654, Pub. L. 91-358, title III, § 301.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2701.

1973 Ed., § 2-2221.

§ 2-1602. PERSONS WHO MAY BE REPRESENTED; APPOINTMENT OF PRIVATE ATTORNEYS; DETERMINATION OF FINANCIAL ELIGIBILITY.

(a)(1) The Service is authorized to represent any person in the District of Columbia who is a person described in any of the following categories and who is financially unable to obtain adequate representation:

- (A) Persons charged with an offense punishable by imprisonment for a term of 6 months, or more;
- (B) Persons charged with violating a condition of probation or parole;
- (C) Persons subject to proceedings pursuant to Chapter 5 of Title 21 (Hospitalization of Persons with Mental Illness);
- (D) Persons for whom civil commitment is sought pursuant to title III of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. § 3411 et seq.) or the provisions of Chapter 7, of Title 24;
- (E) Juveniles alleged to be delinquent or in need of supervision;
- (F) Persons subject to proceedings pursuant to § 24-607 (relating to commitment of chronic alcoholics by court order for treatment);
- (G) Persons subject to proceedings pursuant to § 24-501 (relating to confinement of persons acquitted on the ground of insanity); or
- (H) Persons incarcerated in District of Columbia corrections facilities, not including community residential facilities or community-based corrections facilities, in administrative matters related to their incarceration before any court or administrative body.

(2) The Service shall not represent an inmate in a suit for damages against the District of Columbia or its employees for conduct within the scope of their employment, nor shall it represent an inmate in a suit in which the payment of attorney's fees or costs is sought against the District of Columbia or its employees for conduct within the scope of their employment. Representation may be furnished at any stage of a proceeding, including appellate, ancillary, and collateral proceedings. Not more than 60 per centum of the persons who are annually determined to be financially unable to obtain adequate representation and who are persons described in the above categories may be represented by the Service, but the Service may furnish technical and other assistance to private attorneys appointed to represent persons described in the above categories. The Service shall determine the best practicable allocation of its staff personnel to the courts where it furnishes representation.

(b) The Service shall establish and coordinate the operation of an effective and adequate system for appointment of private attorneys to represent persons described in subsection (a) of this section, but the courts shall have final authority to make such appointments. The Service shall report to the courts at least quarterly on matters relating to the operation of the appointment system and shall consult with the courts on the need for modifications and improvements.

(c) Upon approval of its Board of Trustees, the Service may perform such other functions as are necessary

and appropriate to the duties described above.

(d) The determination whether a person is financially unable to obtain adequate representation shall be based on information provided by the person to be represented and such other persons or agencies as the court in its discretion shall require. Whoever in providing this information knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(July 29, 1970, 84 Stat. 654, Pub. L. 91-358, title III, § 302; Dec. 10, 1987, D.C. Law 7-52, § 2(a), (b), 34 DCR 6891; Sept. 26, 2012, D.C. Law 19- 169, § 7, 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2702.

1973 Ed., § 2-2222.

Effect of Amendments

D.C. Law 19-169, in subsec. (a)(1)(C), substituted "Persons with Mental Illness" for "the Mentally Ill".

Legislative History of Laws

Law 7-52 was introduced in Council and assigned Bill No. 7-173, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 14, 1987 and September 29, 1987, respectively. Signed by the Mayor on October 16, 1987, it was assigned Act No. 7-85 and transmitted to both Houses of Congress for its review.

For history of Law 19-169, see notes under § 2-220.05.

§ 2-1603. BOARD OF TRUSTEES.

(a) The powers of the Service shall be vested in a Board of Trustees composed of 11 members. The Board of Trustees shall establish general policy for the Service but shall not direct the conduct of particular cases.

(b)(1) Members of the Board of Trustees shall be appointed by a panel consisting of:

- (A) The Chief Judge of the United States District Court for the District of Columbia;
- (B) The Chief Judge of the District of Columbia Court of Appeals;
- (C) The Chief Judge of the Superior Court of the District of Columbia; and
- (D) The Mayor of the District of Columbia.

(2) The panel shall be presided over by the Chief Judge of the District of Columbia Court of Appeals (or in his absence, the designee of such Judge). A quorum of the panel shall be 4 members.

(3) Four of the 11 members of the Board of Trustees shall be non-attorneys and shall be residents of the District of Columbia.

(4) Judges of the United States courts in the District of Columbia and of District of Columbia courts may not be appointed to serve as members of the Board of Trustees.

(5) The term of office of a member of the Board of Trustees shall be 3 years. No person shall serve more than 2 consecutive terms as a member of the Board of Trustees. A vacancy in the Board of Trustees shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(c) The trustees of the Legal Aid Agency for the District of Columbia in office on the date of enactment of this chapter shall serve the unexpired portions of their terms as trustees of the Service.

(d) For the purposes of any action brought against the trustees of the Service, they shall be deemed to be employees of the District of Columbia.

(July 29, 1970, 84 Stat. 655, Pub. L. 91-358, title III, § 303; Mar. 6, 1979, D.C. Law 2-155, § 2, 25 DCR 6986; Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99-573, § 17; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(a); Oct. 21, 1998, 112 Stat. 2427, Pub. L. 105-274, § 7(d).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2703.

1973 Ed., § 2-2223.

Legislative History of Laws

Law 2-155 was introduced in Council and assigned Bill No. 2-241, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 28, 1978, it was assigned Act. No. 2-322 and transmitted to both Houses of Congress for its review.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which rewrote (a), is repealed, effective October 21, 1998. Subsection (a) is set out above as it appeared prior to the enactment of § 11272.

§ 2-1604. DIRECTOR AND DEPUTY DIRECTOR; APPOINTMENT; DUTIES; MEMBERSHIP IN BAR REQUIRED.

The Board of Trustees shall appoint a Director and Deputy Director of the Service, each of whom shall serve at the pleasure of the Board. The Director shall be responsible for the supervision of the work of the Service and shall perform such other duties as the Board of Trustees may prescribe. The Deputy Director shall assist the Director and shall perform such duties as he may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia.

(July 29, 1970, 84 Stat. 656, Pub. L. 91-358, title III, § 304; Mar. 3, 1979, D.C. Law 2-139, § 3205(cc), 25 DCR 5740; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(b); Oct. 21, 1998, 112 Stat. 2427, Pub. L. 105-274, § 7(d).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2704.

1973 Ed., § 2-2224.

Legislative History of Laws

Law 2-139 was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Miscellaneous Notes

Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which rewrote this section, is repealed, effective October 21, 1998. This section is set out above as it appeared prior to the enactment of § 11272.

§ 2-1605. EMPLOYMENT OF ATTORNEYS AND OTHER PERSONNEL; COMPENSATION; PRIVATE PRACTICE BY ATTORNEYS NOT PERMITTED.

(a) The Director shall employ a staff of attorneys and clerical and other personnel necessary to provide adequate and effective services. The Director shall make assignments of the personnel of the Service. The compensation of all employees of the Service, other than the Director and the Deputy Director, shall be fixed by the Director, but shall not exceed the compensation which may be paid to persons of similar qualifications and experience in the office of the United States Attorney for the District of Columbia. All attorneys employed by the Service to represent persons shall be members of the bar of the District of Columbia.

(b) No attorney employed by the Service shall engage in the private practice of law or receive a fee for representing any person.

(c)(1) Employees of the Service shall be treated as employees of the Federal Government solely for purposes of any of the following provisions of Title 5, United States Code: subchapter 1 of Chapter 81 (relating to compensation for work injuries), Chapter 83 (relating to retirement), Chapter 84 (relating to Federal Employees' Retirement System), Chapter 87 (relating to life insurance), and Chapter 89 (relating to health insurance).

(2) The Service shall make contributions under the provisions referred to in paragraph (1) of this subsection at the same rates applicable to agencies of the Federal Government.

(3) An individual who is an employee of the Service on the date of the enactment of this subsection may make, within 60 days after the issuance of regulations under paragraph (4) of this subsection, an election under § 8351 or 8432 of Title 5, United States Code, to participate in the Thrift Savings Plan for Federal employees.

(4) This subsection shall apply with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out this subsection.

(5) For purposes of vesting pursuant to § 1-626.10(b), creditable service with the District for employees whose participation in the District Defined Contribution Plan ceases as a result of implementation of this subsection shall include service performed thereafter for the Service.

(July 29, 1970, 84 Stat. 656, Pub. L. 91-358, title III, § 305; Mar. 3, 1979, D.C. Law 2-139, § 3205(cc), 25 DCR 5740; Dec. 10, 1987, D.C. Law 7-52, § 2(c), 34 DCR 6891; Oct. 21, 1998, 112 Stat. 2427, Pub. L. 105-274, § 7(e)(1).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2705.

1973 Ed., § 2-2225.

Legislative History of Laws

For legislative history of D.C. Law 2-139, see Historical and Statutory Notes following § 2-1604.

For legislative history of D.C. Law 7-52, see Historical and Statutory Notes following § 2-1604.

§ 2-1606. ANNUAL REPORT AND AUDIT.

(a) The Board of Trustees of the Service shall submit a fiscal year report of the Service's operations to the Congress of the United States, to the chief judges of the federal courts in the District of Columbia and of the District of Columbia courts, and to the Office of Management and Budget. The report shall include a statement of the financial condition of the Service and a summary of services performed during the year.

(b) The Board of Trustees shall annually arrange for an independent audit to be prepared by a certified public accountant or by a designee of the Office of Management and Budget.

(July 29, 1970, 84 Stat. 657, Pub. L. 91-358, title III, § 306; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(c); Oct. 21, 1998, 112 Stat. 2428, Pub. L. 105-274, § 7(d), (e)(2)(A).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2706.

1973 Ed., § 2-2226.

Miscellaneous Notes

Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which had amended this section, is repealed, effective October 21, 1998. This section is set out above as it would have appeared absent the enactment of § 11272.

§ 2-1607. APPROPRIATION; PUBLIC GRANTS AND PRIVATE CONTRIBUTIONS.

(a) There are authorized to be appropriated to the Service in each fiscal years such funds as may be necessary to carry out this chapter. The Service may arrange by contract or otherwise for the disbursement of appropriated funds, procurement, and the provision of other administrative support functions by the General Services Administration or by other agencies or entities, not subject to the provisions of the District of Columbia Code or any law or regulation adopted by the District of Columbia Government concerning disbursement of funds, procurement, or other administrative support functions.

The Service shall submit an annual appropriations request to the Office of Management and Budget.

(b) Upon approval of the Board of Trustees, the Service may accept public grants and private contributions made to assist it in carrying out the provisions of this chapter.

(c) The Service shall not be subject to any general personnel or budget limitations which otherwise apply to the District of Columbia government or its agencies in any appropriations act.

(d) During fiscal years 2006 through 2008, the Service may charge fees to cover the costs of materials distributed to attendees of educational events, including conferences, sponsored by the Service.

Notwithstanding section 3302 of title 31, United States Code, any amounts received as fees under this subsection shall be credited to the Service and available for use without further appropriation.

(July 29, 1970, 84 Stat. 657, Pub. L. 91-358, title III, § 307; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(d); Oct. 21, 1998, 112 Stat. 2428, Pub. L. 105-274, § 7(d), (e)(2)(B), (f); Oct. 16, 2006, 120 Stat. 2039, Pub. L. 109-356, § 301(b); Dec. 26, 2007, 121 Stat. 2042, Pub. L. 110-161, § 825(a).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2707.

1973 Ed., § 2-2227.

Effect of Amendments

Pub. L. 110-161, in subsec. (a), inserted the first sentence and deleted the former first two sentences which had read as follows: "There are authorized to be appropriated through the Court Services and Offender Supervision Agency for the District of Columbia (or, until such Agency assumes its duties pursuant to § 24-133(a), through the Trustee appointed pursuant to § 24-132) in each fiscal year such sums as may be necessary to carry out this chapter. Funds appropriated pursuant to this subsection shall be transmitted by the Agency (or, if applicable, by the Trustee) to the Service."

Effective Dates

Section 825(c) of Pub. L. 110-161 provides that amendments made by this section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

Miscellaneous Notes

Section 11272 of Pub. L. 105-33: Section 7(d) of Pub. L. 105-274 provided that § 11272 of Pub. L. 105-33, which rewrote the section, is repealed October 21, 1998. This section is set out above as it would have appeared absent the enactment of § 11272.

Permitting general services administration to obtain space and services on behalf of District of Columbia public defender service: Section 103 of Pub. L. 109-356 provides:

"(a) Authority to obtain space and services. -- At the request of the Director of the District of Columbia Public Defender Service, the Administrator of General Services may furnish space and services on behalf of the Service (either directly by providing space and services in buildings owned or occupied by the Federal Government or indirectly by entering into leases with non-Federal entities) in the same manner, and under the same terms and conditions, as the Administrator may furnish space and services on behalf of an agency of the Federal Government.

"(b) Effective Date. -- This section shall apply with respect to fiscal year 2006 and each succeeding fiscal year."

Federal Payment to the District of Columbia Public Defender Service: Pub. L. 111-8, Div. D, Title IV, 123 Stat. 652, March 11, 2009, provides, in part:

"For salaries and expenses, including the transfer and hire of motor vehicles, of the District of Columbia Public Defender Service, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$35,659,000, of which \$700,000 is to remain available until September 30, 2010: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of Federal agencies. *Provided further*, That for fiscal year 2009 and thereafter, the Public Defender Service is authorized to charge fees to cover costs of materials distributed and training provided to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding 31 U.S.C. 3302, such fees shall be credited to this account, to be available until expended without further appropriation."

§ 2-1608. TRANSITION PROVISIONS.

All employees of the Legal Aid Agency for the District of Columbia on the date of enactment of this chapter shall be deemed to be employees of the Service and shall be entitled to the same compensation and

benefits as they are entitled to as employees of the Legal Aid Agency for the District of Columbia.
(July 29, 1970, Pub. L. 91-358, title III, § 308.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2708.

1973 Ed., § 2-2228.