

COUNCIL OF THE DISTRICT OF COLUMBIA

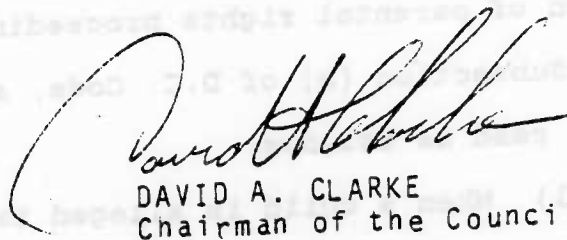
NOTICE

D.C. LAW 5-129

"Neglect Representation Equity Act of 1984"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-356 on first and second readings, July 10, 1984 and September 12, 1984, respectively. Following the signature of the Mayor on October 1, 1984, this legislation was assigned Act No. 5-182, published in the October 19, 1984 edition of the D.C. Register, (Vol. 31 page 5192) and transmitted to Congress January 7, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-129, effective March 13, 1985.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	7,22,23,24,25,28,29,30,31
February	1,4,5,6,7,19,20,21,22,25,26,27,28
March	1,4,5,6,7,8,11,12

AN ACT

EFFECTIVE DATE MAR 13 1985

D.C. ACT 5 - 1 8 2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCT 0 1 1984

To amend the D.C. Code with regard to cases of child neglect and abuse and to provide for more equitable compensation for attorneys representing indigent parties in neglect proceedings; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Neglect Representation Equity Act of 1984".

Sec. 2. Title 16 of the D.C. Code is amended as follows:

(a) Chapter 23 of D.C. Code, title 16, is amended by adding the following in the table of contents:

"16.2326.1. Compensation of attorneys in neglect and termination of parental rights proceedings."

(b) Subsection (b) of D.C. Code, sec. 16-2304, is amended to read as follows:

"(b)(1) When a child is alleged to be neglected or when the termination of the parent and child relationship is under consideration, the parent, guardian or custodian of the child named in the petition or in a motion to terminate is entitled to be represented by counsel at all critical stages of the proceedings, and, if financially unable to

Codification
D.C. Code,
Title 16
Chapter 23

D.C. Code,
sec. 16-2304
Note,
D.C. Code,
sec. 11-2601,
16-2301, and
6-2101
(1985 supp.)

obtain adequate representation, to have counsel appointed in accordance with rules established by the Superior Court of the District of Columbia.

"(2) The Division shall maintain a register of those attorneys who have expressed an interest in being appointed to represent parties or to serve as guardians ad litem in neglect proceedings, and shall attempt insofar as possible to make appointments from the register.

"(3) If the child has been living with a person other than the parent, the person shall receive notice of the neglect or the termination proceedings and, if the child has been with them for twelve (12) months or more, the person may, upon his or her request, be designated a party to the proceedings. If the child has been living with the person less than twelve (12) months, upon the person's request the judge may, at his or her discretion, designate the person a party to the proceedings which pertain to the determination of neglect as defined in D.C. Code, section 16-2301. If the parent or other person party to the proceedings is financially unable to obtain adequate representation, counsel shall be appointed according to rules established by the Superior Court of the District of Columbia. The Superior Court shall in every case involving a neglected child which results in a judicial proceeding, including the termination of the parent and child relationship pursuant to subchapter III of this chapter, appoint a guardian ad litem who is an attorney to represent the child in the proceedings. The guardian ad litem shall in general be

charged with the representation of the child's best interest."

(c) A new D.C. Code, sec. 16-2326.1, is added to read as follows:

New,
D.C. Code,
sec. 16-2326.1
Note,
D.C. Code,
secs. 11-2604,
-2605, and
16-2354
(1985 supp.)

"Section 16-2326.1. Compensation of attorneys in neglect and termination of parental rights proceedings.

"(a)(1) Except as provided for by subsections (b) and (e), an attorney representing a person who is financially unable to obtain legal counsel in a neglect proceeding or appointed to serve as counsel or guardian ad litem for a child who is the subject of a neglect proceeding shall, at the end of the representation or at the end of a segment of the representation, be compensated at a rate not less than the hourly rates established in D.C. Code, sec. 11-2604.

"(2) The attorney may make a claim for expenses reasonably incurred during the course of the representation.

"(b) Compensation payable pursuant to this section shall be subject to the following limitations:

"(1) for all proceedings from initial hearing through disposition, the maximum compensation shall be \$750;

"(2) for all subsequent proceedings other than termination of parental rights, the maximum compensation shall be \$750 per year;

"(3) for proceedings to terminate parental rights, the maximum compensation shall be \$1,000; and

"(4) for appeal of trial court orders, the maximum compensation shall be \$500 per case.

"(c)(1) A separate claim for compensation and

reimbursement shall be made to the Superior Court for representation before that Court, and to the Court of Appeals of the District of Columbia for representation before the Court of Appeals.

"(2) Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the court, and the compensation and reimbursement applied for or received in the same case from any other source.

"(3) The Superior Court or the Court of Appeals shall fix the compensation and reimbursement to be paid to the attorney.

"(4) In cases where representation is furnished other than before the Superior Court or the Court of Appeals, claims shall be submitted to the Superior Court which shall fix compensation and reimbursement to be paid.

"(d) For purposes of compensation and other payments authorized by this section, an order by a court granting a new trial shall be deemed to initiate a new case.

"(e) If a person for whom counsel is appointed under this section appeals to the Court of Appeals of the District of Columbia, the person may do so without prepayment of fees, costs, or security and without filing the affidavit required by D.C. Code, sec. 11-2604.

"(f)(1) Claims for compensation and reimbursement in excess of the maximum amount provided in subsection (b) may be approved for extended or complex representation when the

payment is necessary to provide fair compensation. The request for payment shall be submitted by the attorney for approval by the chief judge of the Superior Court upon recommendation of the presiding judge in the case or, in cases before the Court of Appeals of the District of Columbia, approval by the chief judge of the Court of Appeals upon recommendation of the presiding judge in the case.

"(2) A decision shall be made by the appropriate chief judge in the case of every claim filed under this subsection.

"(g)(1) Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request compensation for services in an ex parte application.

"(2) Upon a finding, after appropriate inquiry in an ex parte proceeding, that investigative, expert, or other services are necessary but are not available through existing court resources, and that the person is financially unable to obtain them, the court shall authorize counsel to obtain the services.

"(3) Compensation to be paid to a person for services rendered under this subsection shall not exceed \$300, unless payment in excess of that limit is certified by the court, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the presiding judge in the case.

"(4) In no event shall the total compensation recoverable for the services described in this section exceed \$750 or the rate provided by D.C. Code, sec. 11-2605(c).

"(h) Compensation for attorneys appointed to represent parties in neglect proceedings and costs of investigative, expert, and other services shall be paid pursuant to procedures established by the Superior Court."

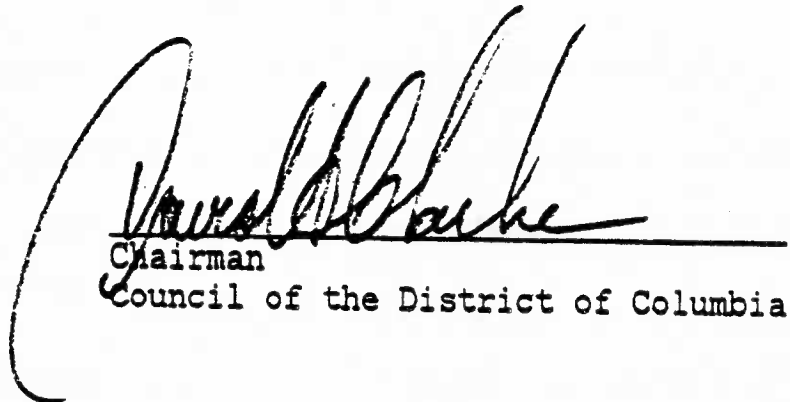
Sec. 3. This act shall apply to services compensable pursuant to this act which are performed in neglect or termination proceedings after the effective date of this act.

Note,
D.C. Code,
secs. 16-2304 &
-2326.1
(1985 supp.)

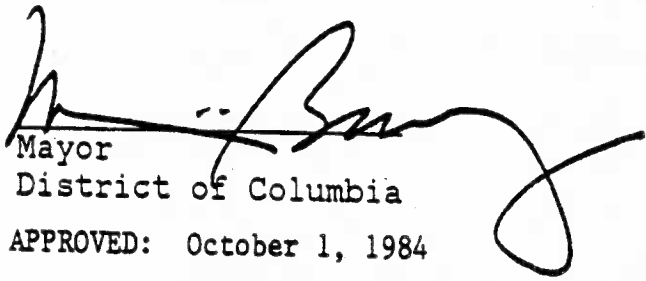
Sec. 4. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act,

approved December 24, 1973 (87 Stat. 813; D.C. Code, sec.

1-233(c)(1)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED: October 1, 1984



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Five - Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B5-356

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted First Reading, 7-10-84

[X] VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. CLARKE, CRAWFORD, JARVIS, KANE, MASON, MOORE, JR., RAY, ROLARK, SHACKLETON, SMITH, JR., SPAULDING, WILSON, WINTER.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council (Signature)

Date: 9/18/84

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted Final Reading, 9-12-84

[X] VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. CLARKE, CRAWFORD, JARVIS, KANE, MASON, MOORE, JR., RAY, ROLARK, SHACKLETON, SMITH, JR., SPAULDING, WILSON, WINTER.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council (Signature)

Date: 9/18/84

[] Item on Consent Calendar

[] ACTION & DATE:

[] VOICE VOTE:

Recorded vote on request

Absent:

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. CLARKE, CRAWFORD, JARVIS, MOORE, JR., RAY, ROLARK, SHACKLETON, SPAULDING, WILSON, WINTER.