

112TH CONGRESS  
1ST SESSION

# S. 1379

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.

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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

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## 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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

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

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

19 (b) **EMERGENCY AUTHORITY TO TOLL OR DELAY**  
20 **JUDICIAL PROCEEDINGS.—**

21 (1) **PROCEEDINGS IN SUPERIOR COURT.—**

22 (A) **IN GENERAL.—**Subchapter III of  
23 Chapter 9 of title 11, District of Columbia Offi-  
24 cial Code, is amended by adding at the end the  
25 following new section:

1 **“§ 11-947. 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 Superior Court or rendering it impracti-  
7 cable for the United States or District of Columbia  
8 Government or a class of litigants to comply with  
9 deadlines imposed by any Federal or District of Co-  
10 lumbia law or rule that applies in the Superior  
11 Court, the chief judge of the Superior Court may ex-  
12 ercise emergency authority in accordance with this  
13 section.

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

21 “(B) The authority conferred by this section ex-  
22 tends to all laws and rules affecting criminal and ju-  
23 venile proceedings (including, pre-arrest, post-arrest,  
24 pretrial, trial, and post-trial procedures) and civil,  
25 family, domestic violence, probate and tax pro-  
26 ceedings.

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

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

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

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

22          “(d) DURATION OF ORDERS.—An order entered  
23          under this section may not toll or extend a time deadline  
24          for a period of more than 14 days, except that if the chief  
25          judge determines that an emergency situation requires ad-

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

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

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

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

18 “(f) REQUIRED REPORTS.—Not later than 180 days  
19 after the expiration of the last extension or tolling of a  
20 time period made by the order or orders relating to an  
21 emergency situation, the chief judge shall submit a brief  
22 report to the Committee on Homeland Security and Gov-  
23 ernmental Affairs of the Senate, the Committee on Over-  
24 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           “(g) EXCEPTIONS.—The notice under subsection  
 9 (e)(2) and the report under subsection (f) 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 9 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:

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

17           (2) PROCEEDINGS IN COURT OF APPEALS.—

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

22           **“§ 11-745. Emergency authority to toll or delay pro-**  
 23           **ceedings.**

24           “(a) TOLLING OR DELAYING PROCEEDINGS.—

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

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

18           “(3) UNAVAILABILITY OF CHIEF JUDGE.—If  
19 the chief judge of the Court of Appeals is absent or  
20 disabled, the authority conferred by this section may  
21 be exercised by the judge designated under section  
22 11–706(a) or by the Joint Committee on Judicial  
23 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           (c) 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) PERMITTING AGREEMENTS TO PROVIDE SERV-  
21 ICES ON A REIMBURSABLE BASIS TO OTHER DISTRICT  
22 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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