

DISTRICT OF COLUMBIA JUDICIAL FINANCIAL
TRANSPARENCY ACT

SEPTEMBER 13, 2016.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

[To accompany H.R. 4419]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 4419) to update the financial disclosure
requirements for judges of the District of Columbia courts, having
considered the same, report favorably thereon with amendments
and recommend that the bill as amended do pass.

CONTENTS

	Page
Committee Statement and Views	4
Section-by-Section	5
Explanation of Amendments	6
Committee Consideration	6
Roll Call Votes	6
Application of Law to the Legislative Branch	7
Statement of Oversight Findings and Recommendations of the Committee	7
Statement of General Performance Goals and Objectives	7
Duplication of Federal Programs	7
Disclosure of Directed Rule Makings	7
Federal Advisory Committee Act	7
Unfunded Mandate Statement	7
Earmark Identification	7
Committee Estimate	8
Budget Authority and Congressional Budget Office Cost Estimate	8
Changes in Existing Law Made by the Bill, as Reported	9

The amendments are as follows:
Add at the end the following new sections:

SEC. 3. AUTHORITY OF PROBATE DIVISION TO USE MAGISTRATE JUDGES.

(a) IN GENERAL.—Section 11–1732(j)(5), District of Columbia Official Code, is amended by striking “Family Divisions” and inserting “Probate Divisions, and the Family Court.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11–1732(j)(4)(A), District of Columbia Official Code, is amended by striking “Family Division” and inserting “Family Court”.

SEC. 4. AUTHORITY OF DISTRICT OF COLUMBIA COURTS TO ACCEPT CERTAIN TYPES OF PAYMENTS.

(a) IN GENERAL.—Subchapter III of chapter 17 of title 11, District of Columbia Code, is amended by adding at the end the following:

“§ 11–1748. Authority of courts to accept certain types of payments

“(a) DEFINITIONS.—In this section, the term ‘electronic funds transfer’—

“(1) means a transfer of funds, other than a transaction by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account; and

“(2) includes point of sale transfers, automated teller machine transfers, direct deposit or withdrawal of funds, transfers initiated by telephone, and transfers resulting from debit card transactions.

“(b) AUTHORITY TO ACCEPT CREDIT CARD PAYMENTS AND ELECTRONIC FUNDS TRANSFERS.—

“(1) IN GENERAL.—The District of Columbia courts may accept payment of fines, fees, escrow payments, restitution, bonds, and other payments to the courts by credit card or electronic funds transfer.

“(2) USE OF VENDORS AND THIRD PARTY PROVIDERS.—The Executive officer—

“(A) may contract with a bank or credit card vendor, or other third party provider, for purposes of accepting payments by credit card or electronic funds transfer; and

“(B) shall make every effort to find the lowest cost vendor for purposes of accepting such payments.

“(3) RESPONSIBILITY FOR PAYING FEES.—Under any contract entered into under paragraph (2), the person making the payment shall be responsible for covering any fee or charge associated or imposed with respect to the method of payment.

“(4) COMPLETION OF PAYMENT.—If a person elects to make a payment to the District of Columbia courts by a method authorized under paragraph (1), the payment shall not be deemed to be made until the courts receive the funds.

“(c) **AUTHORITY TO ACCEPT CHECKS.**—

“(1) **IN GENERAL.**—The District of Columbia courts may accept payment of fines, fees, escrow payments, restitution, bonds, and other payments to the courts by check.

“(2) **USE OF CHECK GUARANTEE VENDOR.**—The Executive Officer—

“(A) may contract with a check guarantee vendor for purposes of accepting payments by check; and

“(B) shall make every effort to find the lowest cost vendor for purposes of accepting such payments.

“(3) **RESPONSIBILITY FOR PAYING FEES.**—Under any contract entered into under paragraph (2), the person making the payment by check shall be responsible for covering any fee or charge associated or imposed with respect to the method of payment.

“(d) **LIABILITY FOR NON-PAYMENT.**—If a check or other method of payment, including payment by credit card, debit card, or charge card, so received is not duly paid, or is paid and subsequently charged back to the District of Columbia courts, the person by whom such check or other method of payment has been tendered shall remain liable for the payment, to the same extent as if such check or other method of payment had not been tendered.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for subchapter III of chapter 17 of title 11, District of Columbia Code, is amended by adding at the end the following:

“11–1748. Authority of courts to accept certain types of payments.”.

SEC. 5. INCREASE IN MAXIMUM AMOUNT IN CONTROVERSY PERMITTED FOR CASES UNDER JURISDICTION OF SMALL CLAIMS AND CONCILIATION BRANCH OF SUPERIOR COURT.

(a) **IN GENERAL.**—Section 11–1321, District of Columbia Official Code, is amended by striking “\$5,000” and inserting “\$10,000”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to any case filed in the Superior Court of the District of Columbia on or after the date of enactment of this Act.

SEC. 6. AUTHORITY TO APPROVE COMPENSATION OF ATTORNEYS IN EXCESS OF MAXIMUM AMOUNT.

(a) **IN GENERAL.**—

(1) **CRIMINAL DEFENSE APPOINTMENTS.**—Section 11–2604(c), District of Columbia Official Code, is amended by striking the last sentence and inserting the following: “Each chief judge may delegate such approval authority to an active or senior judge in the court in which the chief judge sits.”.

(2) **CHILD ABUSE AND NEGLECT APPOINTMENTS.**—Section 16–2326.01(f), District of Columbia Official Code, is amended—

(A) by striking “(f)(1)” and inserting “(f)”;

(B) by striking paragraph (2); and
 (C) by adding at the end the following: “Each chief judge may delegate such approval authority to an active or senior judge in the court in which the chief judge sits.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any case or proceeding initiated on or after the date of enactment of this Act.

Amend the title so as to read:

A bill to update the financial disclosure requirements for judges of the District of Columbia courts and to make other improvements to the District of Columbia courts.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 4419, the District of Columbia Judicial Financial Transparency Act, would strengthen disclosure requirements for judges in the District of Columbia (District). The bill aligns financial disclosure requirements for District judges with those required for federal judges.

BACKGROUND AND NEED FOR LEGISLATION

Federal judicial officers are required to provide extensive financial disclosures under the Ethics in Government Act of 1978 (5 App. U.S.C. §§ 101–505) (Ethics Act). Title I of that Act requires that certain officers and employees of the federal government disclose information on their financial dealings so as to prevent an appearance of corruption or bias. In these disclosures, individuals are required to disclose sources of income other than their government paid salaries, for both themselves and their spouses. The Ethics Act also requires that individuals subject to the Act disclose information on their liabilities and debts.¹ Once a report is filed, the Act requires that the filed report be made publicly available for a period of six years.²

In 1970, Congress passed the District of Columbia Court Reorganization Act, which, among other things, established financial disclosure requirements for District judges.³ The D.C. Home Rule Act prohibits the District government from passing any law with respect to any provision of the financial disclosure requirements for District judges.⁴

The District’s disclosure requirements are far less stringent than those for federal judges and have been insufficiently transparent. This shortcoming was made clear in May of 2014 when the Center for Public Integrity reviewed financial disclosure requirements for the District, the federal government, and the States.⁵ The review placed the District among the worst examples of financial disclosure, assigning the disclosure requirements a failing grade. One of

¹ 5 U.S.C. § 101

² 5 U.S.C. § 105

³ P.L. 91–358

⁴ P.L. 93–198, Sec 602(a)(4).

⁵ Reity O’Brien, et. al. District of Columbia Earns ‘F’ For Judicial Financial Disclosure, Center for Public Integrity (May 19, 2014) available at <https://www.publicintegrity.org/2013/12/04/13725/district-columbia-earns-f-judicial-financial-disclosure>.

the major problems with the disclosure requirements was the fact that information was sealed and not available for public review.

H.R. 4419 would increase the disclosure requirements of District judges to more closely match the requirements of the Ethics Act. Importantly, the Chair of the Joint Committee on Judicial Administration and Chief Judge of the District of Columbia Court of Appeals submitted a letter in support of the Senate companion to H.R. 4419 (S. 2966) urging the passage of that bill.⁶

LEGISLATIVE HISTORY

H.R. 4419 was introduced by Delegate Eleanor Holmes Norton (D–DC) on February 1, 2016. The bill was referred to the Committee on Oversight and Government Reform. The bill was ordered favorably reported, as amended, by voice vote on July 12, 2016.

The Senate companion to H.R. 4419 is S. 2966, sponsored by Senator James Lankford (R–OK) and cosponsored by Senators Thomas Carper (D–DE), Ron Johnson (R–WI), and Cory Booker (D–NJ). S. 2966 was introduced on May 23, 2016 and referred to the Committee on Homeland Security and Governmental Affairs. The bill was ordered favorably reported with an amendment on May 25, 2016.

SECTION-BY-SECTION

Section 1. Short title

Designates the short title of the bill as the District of Columbia Judicial Financial Transparency Act.

Section 2. Financial disclosure requirements for judges of district of columbia courts

Amends section 11–1530 of the D.C. Code to require each judge to disclose the source, type, and amount of any income that exceeds \$200 or of the judge’s spouse that exceeds \$1,000, except income from the federal government.

Requires the judge to disclose the name and address of each private foundation, business, or corporation in which the judge is an officer, director, proprietor, or partner. It also requires judges to disclose liabilities greater than \$10,000.

Requires that the judge disclose the identity and value of any real or personal property with a value greater than \$10,000. The judge must also disclose the value and source of any gift or honorarium or expense account or reimbursement worth more than \$250.

Requires the judge to disclose the source and amount of any waiver of a fee or charge.

Requires disclosures to be filed in a report that shall be made available for public inspection upon written request to the District of Columbia Commission on Judicial Disabilities and Tenure and notice to the reporting judge. Reports will be kept on file for at least three years. A judge may file for an exemption from public disclosure, which will be granted if the commission finds that re-

⁶Letter to Sen. Ron Johnson, Chairman, S. Comm. On Homeland Security and Governmental Affairs, et. al. from Eric T. Washington, Chair, Joint Comm. On Judicial Administration, Chief Judge, District of Columbia Court of Appeals.

vealing the personal or sensitive information would endanger a judge or family member.

Makes clear that failure to file the required report or filing a fraudulent report constitutes willful misconduct and shall be grounds for removal from office.

Section 3. Authority of Probate Division to use magistrate judges

Amends section 11-1732(j)(5) of the D.C. Code to allow the Probate Division to use magistrate judges.

Section 4. Authority of District of Columbia courts to accept certain types of payments

Creates 11-1748 in the D.C. Code to provide authority to the District court system to establish a system to take and process credit card and electronic payments of funds not deposited in the U.S. Treasury.

Section 5. Increase in maximum amount in controversy permitted for cases under jurisdiction of Small Claims and Conciliation Branch of Superior Court

Amends section 11-1321 of the D.C. Code to increase the maximum amount in controversy in small claims court from \$5,000 to \$10,000.

Section 6. Authority to approve compensation of attorneys in excess of maximum amount

Amends section 11-2604(c) of the D.C. Code to allow for a chief judge to delegate approval authority for compensation of attorneys in excess of maximum amount to an active or senior judge in the court in which a chief judge sits.

EXPLANATION OF AMENDMENTS

During Full Committee consideration of the bill, Delegate Eleanor Holmes Norton introduced an amendment to provide authority for probate court to utilize magistrate judges to handle cases on the docket. The amendment would also provide authority for the District court system to establish a system to take and process credit card and electronic payments of funds not deposited in the U.S. Treasury. The amendment also increases the maximum amount in controversy allowed in small claims court from \$5,000 to \$10,000. Finally, the amendment would provide authority for the Chief Judge to delegate authority for approving attorney compensation to active or senior judges. The amendment was adopted by voice vote.

COMMITTEE CONSIDERATION

On July 12, 2016 the Committee met in open session and ordered reported favorably the bill, H.R. 4419, as amended, by voice vote, a quorum being present.

ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of H.R. 4419.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill updates the financial disclosure requirements for judges of the District of Columbia courts. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal and objective of the bill is to update the financial disclosure requirements for judges of the District of Columbia courts.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

AUGUST 11, 2016.

Hon. JASON CHAFFETZ,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4419, the District of Columbia Judicial Financial Transparency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 4419—District of Columbia Judicial Financial Transparency Act

H.R. 4419 would change portions of the District of Columbia Official Code that governs the D.C. Courts system. Under current law, the Congress annually appropriates funds for the District of Columbia Courts; and its expenditures are recorded in the federal budget. The legislation would revise the financial disclosure requirements for District of Columbia judges. The revisions would establish new dollar thresholds and requirements for reporting to the District of Columbia Commission on Judicial Disabilities and Tenure. The bill also would allow the District of Columbia Courts to collect fines, fees, and other payments via credit card or electronic funds transfer. In addition, H.R. 4419 would provide new authorities to certain judges and increase the limit for small claims cases in the District of Columbia from \$5,000 to \$10,000.

Based on an analysis of the administrative costs of the District of Columbia Courts, CBO estimates that the bill would have an insignificant effect on federal spending. However, the new financial disclosure requirements would require the District of Columbia to hire up to one new staff member. Although the District of Columbia Small Claims Court could be presented with more claims under

the bill, the number of judges addressing those claims would not be increased by the legislation. Cases in the setting of a small claims court are often more expeditious and inexpensive to resolve.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 4419 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

The revisions and increases in jurisdictional limits in the bill would be intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because they alter local laws. CBO estimates that the aggregate costs of the mandates would be minimal and fall well below the threshold established in the UMRA (\$77 million in 2016, adjusted annually for inflation). H.R. 4419 contains no private-sector mandates.

On August 3, 2016, CBO transmitted a cost estimate for S. 2966, the District of Columbia Judicial Financial Transparency Act, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 25, 2016. The two pieces of legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs) and Zachary Bryum (for the intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

DISTRICT OF COLUMBIA OFFICIAL CODE

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TITLE 11—ORGANIZATION AND JURISDICTION OF THE COURTS

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CHAPTER 13— SMALL CLAIMS AND CONCILIATION BRANCH OF THE SUPERIOR COURT

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SUBCHAPTER II— JURISDICTION AND PROCEDURES

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§ 11 1321. Exclusive jurisdiction of small claims

The Small Claims and Conciliation Branch has exclusive jurisdiction of any action within the jurisdiction of the Superior Court

which is only for the recovery of money, if the amount in controversy does not exceed ~~【\$5,000】~~ *\$10,000*, exclusive of interest, attorney fees, protest fees, and costs. An action which affects an interest in real property may not be brought in the Branch. If a counterclaim, cross claim, or any other claim or any defense, affecting an interest in real property, is made in an action brought in the Branch, the action shall be certified to the Civil Division.

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CHAPTER 15—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

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SUBCHAPTER II—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

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【§ 11 1530. Financial statements

【(a) Pursuant to such rules as the Commission shall promulgate, each judge of the District of Columbia courts shall, within one year following the date of enactment of the District of Columbia Court Reorganization Act of 1970 and at least annually thereafter, file with the Commission the following reports of the judge’s personal financial interests:

【(1) A report of the judge’s income and the judge’s spouse’s income for the period covered by the report, the sources thereof, and the amount and nature of the income received from each such source.

【(2) The name and address of each private foundation or eleemosynary institution, and of each business or professional corporation, firm, or enterprise in which the judge was an officer, director, proprietor, or partner during such period;

【(3) The identity of each liability of \$ 5,000 or more owed by the judge or by the judge and the judge’s spouse jointly at any time during such period.

【(4) The source and value of all gifts in the aggregate amount or value of \$ 50 or more from any single source received by the judge during such period, except gifts from the judge’s spouse or any of the judge’s children or parents.

【(5) The identity of each trust in which the judge held a beneficial interest having a value of \$ 10,000 or more at any time during such period, and in the case of any trust in which the judge held any beneficial interest during such period, the identity, if known, of each interest in real or personal property in which the trust held a beneficial interest having a value of \$ 10,000 or more at any time during such period. If the judge cannot obtain the identity of the trust interest, the judge shall request the trustee to report that information to the Commission in such manner as the Commission shall by rule prescribe.

【(6) The identity of each interest in real or personal property having a value of \$ 10,000 or more which the judge owned at any time during such period.

【(7) The amount or value and source of each honorarium of \$ 300 or more received by the judge during such period.

[(8) The source and amount of all money, other than that received from the United States Government, received in the form of an expense account or as reimbursement for expenditures during such period.]

[(b)(1) Except as provided in paragraph (2) of this subsection the content of any report filed under this section shall not be open to inspection by anyone other than (A) the person filing the report, (B) authorized members, alternate members, or staff of the Commission to determine if this section has been complied with or in connection with duties of the Commission under this subchapter, or (C) a special court convened under section 11-1529 to review a removal order of the Commission.]

[(2) Reports filed pursuant to paragraphs (2) and (7) of subsection (a) shall be made available for public inspection and copying promptly after filing and during the period they are kept by the Commission, and shall be kept by the Commission for not less than three years.]

[(3) The intentional failure by a judge of a District of Columbia court to file a report required by this section, or the filing of a fraudulent report, shall constitute willful misconduct in office and shall be grounds for removal from office under section 11-1526(a)(2).]

§ 11-1530. Financial statements

(a) Pursuant to such rules as the Commission shall promulgate, each judge of the District of Columbia courts shall, within one year following the date of enactment of the District of Columbia Court Reorganization Act of 1970 and at least annually thereafter, file with the Commission a report containing the following information:

(1)(A) The source, type and amount of the judge's income which exceeds \$200 (other than income from the United States government and income referred to in subparagraph (C)) for the period covered by the report.

(B) The source and type of the judge's spouse's income which exceeds \$1,000 (other than income from the United States government and income referred to in subparagraph (C)) for the period covered by the report.

(C) The source and type of income which consists of dividends, rents, interest, and capital gains received by the judge and the judge's spouse during such period which exceeds \$200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within—

(i) not more than \$1,000,

(ii) greater than 1,000 but not more than \$2,500,

(iii) greater than \$2,500 but not more than \$5,000,

(iv) greater than \$5,000 but not more than \$15,000,

(v) greater than \$15,000 but not more than \$50,000,

(vi) greater than \$50,000 but not more than \$100,000,

(vii) greater than \$100,000 but not more than \$1,000,000,

(viii) greater than \$1,000,000 but not more than \$5,000,000, or

(ix) greater than \$5,000,000.

(2) The name and address of each private foundation or eleemosynary institution, and of each business or professional cor-

poration, firm, or enterprise in which the judge was an officer, director, proprietor, or partner during such period.

(3) The identity and category of value (as set forth in subsection (b)) of each liability of \$10,000 or more owed by the judge or by the judge and the judge's spouse jointly at any time during such period.

(4) The source and value of all gifts in the aggregate amount or value of \$250 or more from any single source received by the judge during such period, except gifts from the judge's spouse or any of the judge's children or parents.

(5) The identity of each trust in which the judge held a beneficial interest having a value of \$10,000 or more at any time during such period, and in the case of any trust in which the judge held any beneficial interest during such period, the identity, if known, of each interest in real or personal property in which the trust held a beneficial interest having a value of \$10,000 or more at any time during such period. If the judge cannot obtain the identity of the trust interest, the judge shall request the trustee to report that information to the Commission.

(6) The identity and category of value (as set forth in subsection (b)) of each interest in real or personal property having a value of \$10,000 or more which the judge owned at any time during such period.

(7) The amount or value and source of each honorarium of \$250 or more received by the judge and the judge's spouse during such period.

(8) The source and amount of all money, other than that received from the United States government, received in the form of an expense account or as reimbursement for expenditures from any source aggregating more than \$250 during such period.

(9) The source and amount of all waivers or partial waivers of fees or charges accepted by the judge on behalf of the judge or the judge's spouse, domestic partner, or guest during such period.

(b) For purposes of paragraphs (3) and (6) of subsection (a), the categories of value set forth in this subsection are—

(1) not more than \$15,000;

(2) greater than \$15,000 but not more than \$50,000;

(3) greater than \$50,000 but not more than \$100,000;

(4) greater than \$100,000 but not more than \$250,000;

(5) greater than \$250,000 but not more than \$500,000;

(6) greater than \$500,000 but not more than \$1,000,000;

(7) greater than \$1,000,000 but not more than \$5,000,000;

(8) greater than \$5,000,000 but not more than \$25,000,000;

(9) greater than \$25,000,000 but not more than \$50,000,000;

and

(10) greater than \$50,000,000.

(c)(1) Reports filed pursuant to this section shall, upon written request, and notice to the reporting judge for purposes of making an application to the Commission for a redaction pursuant to paragraph (2), be made available for public inspection and copying within a reasonable time after filing and during the period they are kept by the Commission (in accordance with rules promulgated by the

Commission), and shall be kept by the Commission for not less than three years.

(2) This section does not require the public availability of reports filed by a judge if upon application by the reporting judge, a finding is made by the Commission that revealing personal and sensitive information could endanger that judge or a family member of that judge, except that a report may be redacted pursuant to this paragraph only—

(A) to the extent necessary to protect the individual who filed the report or a family member of that individual; and

(B) for as long as the danger to such individual exists.

(d) The intentional failure by a judge of a District of Columbia court to file a report required by this section, or the filing of a fraudulent report, shall constitute willful misconduct in office and shall be grounds for removal from office under section 11-1526(a)(2).

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CHAPTER 17—ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS

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Subchapter II—COURT PERSONNEL

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§ 11-1732. Magistrate judges

(a) With the approval of a majority of the judges of the Superior Court of the District of Columbia in active service and subject to standards and procedures established by the rules of the Superior Court, the chief judge of the Superior Court may appoint magistrate judges, who shall serve in the Superior Court and perform the duties enumerated in subsection (j) of this section (or, in the case of magistrate judges for the Family Court or the Domestic Violence Unit of the Superior Court, the duties enumerated in section 11-1732A(d)) and such other functions incidental to these duties as are consistent with the rules of the Superior Court and the Constitution and laws of the United States and of the District of Columbia.

(b) Magistrate judges shall be selected pursuant to standards and procedures adopted by the Board of Judges. Such procedures shall contain provisions for public notice of all vacancies in magistrate judge positions and for the establishment by the Court of an advisory merit selection panel, composed of lawyer and nonlawyer residents of the District of Columbia who are not employees of the District of Columbia Courts, to assist the Board of Judges in identifying and recommending persons who are best qualified to fill such positions.

(c) Except as provided in section 11-1732A(b), no individual shall be appointed as a magistrate judge unless that individual—

(1) is a citizen of the United States;

(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding the appoint-

ment or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or District government; and

(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to appointment, and retains such residency during service as a magistrate judge, except that magistrate judges appointed prior to the effective date of this section shall not be required to be residents of the District to be eligible to be appointed to one of the initial terms under this section or to be reappointed.

(d) Magistrate judges shall be appointed for terms of four years and may be reappointed for terms of four years. Those individuals serving as magistrate judges on the effective date of this Act shall be automatically appointed for a four year term.

(e) Upon the expiration of a magistrate judge's term, the magistrate judge may continue to perform the duties of office until a successor is appointed, or for 90 days after the date of the expiration of the hearing commissioner's term, whichever is earlier.

(f) No individual may serve as a magistrate judge under this section after having attained the age of seventy-four.

(g) The Board of Judges may suspend, involuntarily retire, or remove a magistrate judge, during the term for which the magistrate judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability. Suspension, involuntary retirement, or removal requires the concurrence of a majority of the judges in active service. Before any order of suspension, involuntary retirement, or removal shall be entered, a full specification of the charges and the opportunity to be heard shall be furnished to the magistrate judge pursuant to procedures established by rules of the Superior Court.

(h) If the Board of Judges determines that a magistrate judge position is not needed, the Board of Judges may terminate the position.

(i)(1) Magistrate judges may not engage in the practice of law, or in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as officers of the court.

(2) Magistrate judges shall abide by the Canons of Judicial Ethics.

(j) A magistrate judge, when specifically designated by the chief judge of the Superior Court, and subject to the rules of the Superior Court and the right of review under subsection (k), may perform the following functions:

(1) Administer oaths and affirmations and take acknowledgements;

(2) Determine conditions of release pursuant to the provisions of Title 23 of the District of Columbia Official Code (relating to criminal procedure);

(3) Conduct preliminary examinations and initial probation revocation hearings in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it;

(4)(A) In any case brought under § 11-1101(1), (3), (10), or (11) of the District of Columbia Official Code involving the es-

establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a magistrate judge in the **Family Division** *Family Court* of the Superior Court finds that there is an existing duty of support, the magistrate judge shall conduct a hearing on support, make findings, and enter judgment as provided by law, and in accordance with guidelines established by rule of the Superior Court, which judgment shall constitute a final order of the Superior Court.

(B) If in a case under paragraphs (A), the magistrate judge finds that a duty of support exists and makes a finding that the case involves complex issues requiring judicial resolution, the magistrate judge shall establish a temporary support obligation and refer unresolved issues to a judge of the Superior Court.

(C) In cases under subparagraphs (A) and (B) in which the magistrate judge finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceeding under any applicable statute or court rule, if that individual fails to appear or otherwise respond, the magistrate judge shall enter a default order, which shall constitute a final order of the Superior Court;

(5) Subject to the rules of the Superior Court and with the consent of the parties involved, make findings and enter final orders or judgments in other uncontested or contested proceedings, in the Civil, Criminal, and **Family Divisions** *Probate Divisions, and the Family Court*, of the Superior Court, excluding jury trials and trials of felony cases.

(k) With respect to proceedings and hearings under paragraphs (2), (3), (4), and (5) of subsection (j) (or proceedings and hearings under section § 11-1732A(d), in the case of magistrate judges for the Family Court or the Domestic Violence Unit of the Superior Court), a review of the magistrate judge's order or judgment, in whole or in part, may be made by a judge of the appropriate division (or, in the case of an order or judgment of a magistrate judge of the Family Court or the Domestic Violence Unit of the Superior Court, by a judge of the Family Court or the Domestic Violence Unit) sua sponte and must be made upon a motion of one of the parties made pursuant to procedures established by rules of the Superior Court. The reviewing judge shall conduct such proceedings as required by the rules of the Superior Court. An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Superior Court has reviewed the order or judgment.

(1) The Superior Court shall ensure that all magistrate judges receive training to enable them to fulfill their responsibilities (subject to the requirements of section 11-1732A(f) in the case of magistrate judges of the Family Court of the Superior Court or the Domestic Violence Unit).

(m)(1) The chief judge of the Superior Court, in consultation with the District of Columbia Bar, the City Council of the District of Columbia, and other interested parties, shall within one year of the effective date of this section, make a careful study of conditions in the Superior Court to determine—

- (A) the number of appointments required to provide for the effective administration of justice;
- (B) the divisions in which hearing commissioners shall serve;
- (C) the appropriate functions of hearing commissioners; and
- (D) the compensation of, and other personnel matters pertaining to, hearing commissioners.

Upon completion of the study, the chief judge shall report the findings of such study to the appropriate committees of the Congress.

(2) After the study required by paragraph (1), the chief judge shall, from time to time, make such studies as the Board of Judges shall deem expedient, giving consideration to suggestions of the District of Columbia Bar and other interested parties.

(n) With the concurrence of the District of Columbia Court of Appeals, the Board of Judges of the Superior Court may promulgate rules, not inconsistent with the terms of this section, which are necessary for the fair and effective utilization of magistrate judges in the Superior Court.

(o) For purposes of this section, the term "Board of Judges" means the judges of the Superior Court of the District of Columbia. Any action of the Board of Judges shall require a majority vote of the sitting judges.

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Subchapter III—DUTIES AND RESPONSIBILITIES

Sec.
11-1741. Court operations and organization.

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11-1748. Authority of courts to accept certain types of payments.

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§11-1748. Authority of courts to accept certain types of payments

(a) *DEFINITIONS.*—*In this section, the term "electronic funds transfer"—*

(1) *means a transfer of funds, other than a transaction by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account; and*

(2) *includes point of sale transfers, automated teller machine transfers, direct deposit or withdrawal of funds, transfers initiated by telephone, and transfers resulting from debit card transactions.*

(b) *AUTHORITY TO ACCEPT CREDIT CARD PAYMENTS AND ELECTRONIC FUNDS TRANSFERS.*—

(1) *IN GENERAL.*—*The District of Columbia courts may accept payment of fines, fees, escrow payments, restitution, bonds, and other payments to the courts by credit card or electronic funds transfer.*

(2) *USE OF VENDORS AND THIRD PARTY PROVIDERS.*—*The Executive officer—*

(A) may contract with a bank or credit card vendor, or other third party provider, for purposes of accepting payments by credit card or electronic funds transfer; and

(B) shall make every effort to find the lowest cost vendor for purposes of accepting such payments.

(3) *RESPONSIBILITY FOR PAYING FEES.*—Under any contract entered into under paragraph (2), the person making the payment shall be responsible for covering any fee or charge associated or imposed with respect to the method of payment.

(4) *COMPLETION OF PAYMENT.*—If a person elects to make a payment to the District of Columbia courts by a method authorized under paragraph (1), the payment shall not be deemed to be made until the courts receive the funds.

(c) *AUTHORITY TO ACCEPT CHECKS.*—

(1) *IN GENERAL.*—The District of Columbia courts may accept payment of fines, fees, escrow payments, restitution, bonds, and other payments to the courts by check.

(2) *USE OF CHECK GUARANTEE VENDOR.*—The Executive Officer—

(A) may contract with a check guarantee vendor for purposes of accepting payments by check; and

(B) shall make every effort to find the lowest cost vendor for purposes of accepting such payments.

(3) *RESPONSIBILITY FOR PAYING FEES.*—Under any contract entered into under paragraph (2), the person making the payment by check shall be responsible for covering any fee or charge associated or imposed with respect to the method of payment.

(d) *LIABILITY FOR NON-PAYMENT.*—If a check or other method of payment, including payment by credit card, debit card, or charge card, so received is not duly paid, or is paid and subsequently charged back to the District of Columbia courts, the person by whom such check or other method of payment has been tendered shall remain liable for the payment, to the same extent as if such check or other method of payment had not been tendered.

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CHAPTER 26—REPRESENTATION OF INDIGENTS IN CRIMINAL CASES

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§ 11 2604. Payment for representation

(a) Any attorney appointed pursuant to this chapter shall, at the conclusion of the representation or any segment thereof, be compensated at a fixed rate of \$ 90 per hour. Such attorney shall be reimbursed for expenses reasonably incurred.

(b) The compensation to be paid to an attorney appointed pursuant to this chapter shall not exceed the following maximum amounts:

(1) For representation of a defendant before the Superior Court of the District of Columbia for misdemeanors or felonies, the maximum amount set forth in section 3006A(d)(2) of title 18, United States Code, for representation of a defendant be-

fore the United States magistrate judge or the district court for misdemeanors or felonies (as the case may be).

(2) For representation of a defendant before the District of Columbia Court of Appeals, the maximum amount set forth in section 3006A(d)(2) of title 18, United States Code, for representation of a defendant in an appellate court.

(3) For representation of a defendant in post-trial matters for misdemeanors or felonies, the amount applicable under paragraph (1) for misdemeanors or felonies (as the case may be).

(c) Claims for compensation and reimbursement in excess of any maximum amount provided in subsection (b) of this section may be approved for extended or complex representation whenever such payment is necessary to provide fair compensation. Any such 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 District of Columbia Court of Appeals, approval by the chief judge of the Court of Appeals upon recommendation of the presiding judge in the case. [A decision shall be made by the appropriate chief judge in the case of every claim filed under this subsection.] *Each chief judge may delegate such approval authority to an active or senior judge in the court in which the chief judge sits.*

(d) A separate claim for compensation and reimbursement shall be made to the Superior Court for representation before that court, and to the District of Columbia Court of Appeals for representation before that court. 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. The court shall fix the compensation and reimbursement to be paid to the attorney. In cases where representation is furnished other than before the Superior Court or the District of Columbia Court of Appeals, claims shall be submitted to the Superior Court which shall fix the compensation and reimbursement to be paid.

(e) 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.

(f) If a person for whom counsel is appointed under this section appeals to the District of Columbia Court of Appeals, such person may do so without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28, United States Code.

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**TITLE 16—PARTICULAR ACTIONS,
PROCEEDINGS AND MATTERS**

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CHAPTER 23—FAMILY DIVISION PROCEEDINGS

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SUBCHAPTER I— PROCEEDINGS REGARDING
DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

§ 16-2326.01. 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. Official 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 \$ 1,980;

(2) for all subsequent proceedings other than termination of parental rights, the maximum compensation shall be \$ 1,980 per year;

(3) for proceedings to terminate parental rights, the maximum compensation shall be \$ 2,700; and

(4) for appeal of trial court orders, the maximum compensation shall be \$ 1,350 per case.

(c)(1) A separate claim for compensation and reimbursement shall be made to the Superior Court of the District of Columbia for representation before that Court, and to the District of Columbia Court of Appeals for representation before the District of Columbia 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 of the District of Columbia or the District of Columbia 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 of the District of Columbia or the District of Columbia Court of Appeals, claims shall be submitted to the Superior Court of the District of Columbia 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 District of Columbia Court of Appeals, the person may do so without prepayment of fees, costs, or security and without filing the affidavit required by D.C. Official Code § 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 of the District of Columbia upon recommendation of the presiding judge in the case or, in cases before the District of Columbia Court of Appeals, approval by the chief judge of the District of Columbia Court of Appeals upon recommendation of the presiding judge in the case. *Each chief judge may delegate such approval authority to an active or senior judge in the court in which the chief judge sits.*

[(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. Official Code § 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 of the District of Columbia.

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