

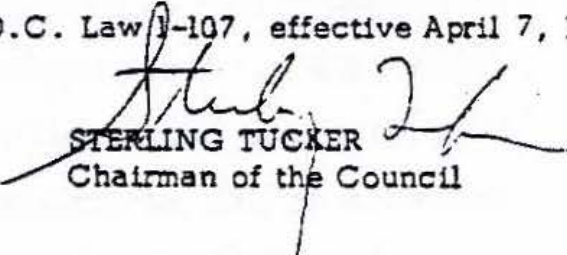
COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE

April 13, 1977

"District of Columbia Marriage and Divorce Act"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, (PL 93-198) the Act, the Council of the District of Columbia adopted Bill No. 1-89 on first, amended first and second readings July 27, 1976, September 15, 1976, November 22, 1976 and December 7, 1976, respectively. Following the signature of the Mayor on January 4, 1977, this legislation was assigned Act No. 1-193, published in the February 11, 1977, edition of the D.C. Register and transmitted to both Houses of Congress 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 the following legislation as D.C. Law 1-107, effective April 7, 1977.


STERLING TUCKER
Chairman of the Council

(Ref. 23, D.C. Reg., 5869, February 11, 1977)

D.C. LAW

1-107

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 7, 1977

A bill to amend the laws of the District of Columbia relating to marriage, divorce, and child custody; abolition of certain common law causes of action; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Marriage and Divorce act."

TITLE I

Sec. 101. Section 16-902 of the D.C. Code (1973 Edition), is amended to read as follows:

"No action for divorce or legal separation shall be maintainable unless one of the parties to the marriage has been a bona fide resident of the District of Columbia for at least six months next preceding the commencement of the action. No action for annulment of a marriage performed outside the District of Columbia or for affirmance of any marriage shall be maintainable unless one of the parties is a bona fide resident of the District of Columbia at the time of

the commencement of the action. The residence of the parties to an action for annulment of a marriage performed in the District of Columbia shall not be considered in determining whether such action shall be maintainable. If a member of the armed forces of the United States resides in the District of Columbia for a continuous period of six months during his or her period of military service, he or she shall be deemed to reside in the District of Columbia for purposes of this section only."

Sec. 102. Section 16-904 of the D.C. Code (1973 Edition) is amended to read as follows:

"(a) A divorce from the bonds of marriage may be granted if:

(1) both parties to the marriage have mutually and voluntarily lived separate and apart without cohabitation for a period of six months next preceding the commencement of the action;

(2) both parties to the marriage have lived separate and apart without cohabitation for a period of one year next preceding the commencement of the action.

(b) A legal separation from bed and board may be granted if:

(1) both parties to the marriage have mutually and voluntarily lived separate and apart without cohabitation;

(2) both parties to the marriage have lived separate and apart without cohabitation for a period of one year next preceding the commencement of the action;

(3) either party has committed adultery; or

(4) either party has engaged in conduct which constitutes cruelty toward the other.

For purposes of subsections (1) and (2) of paragraphs (a) and (b) of this section, parties who have pursued separate lives, sharing neither bed nor board, shall be deemed to have lived separate and apart from one another even though:

(1) they reside under the same roof; or

(2) the separation is pursuant to an order of a court.

(d) Marriage contracts may be annulled in the following cases:

(1) where such marriage was contracted while either of the parties thereto had a former wife or husband living, unless the former marriage had been lawfully dissolved;

(2) where such marriage was contracted during the insanity of either party (unless there has been voluntary cohabitation after the discovery of the insanity);

(3) where such marriage was procured by fraud or coercion;

(4) where either party was matrimonially incapacitated at the time of marriage without the knowledge of the other and has continued to be so incapacitated;

(5) where either of the parties had not attained the age of legal consent to the contract of marriage (unless there has been voluntary cohabitation after attaining the age of legal consent), but in such cases only at the suit of the party who had not attained such age."

Sec. 103. (a) Section 16-905 of the D.C. Code (1973 Edition) is amended by adding "(a)" to the beginning thereof, and by adding to the end thereof the following:

"(b) The court may enlarge its decree of legal separation to an absolute divorce upon application of the party to whom the decree of legal separation was granted, a copy of which application shall be duly served upon the

adverse party, if the court finds on the basis of affidavits that no reconciliation has taken place or is probable and that a separation has continued voluntarily and without interruption for a six-month period or without interruption for a period of one year."

(b) The heading of section 16-905 and the reference thereto in the table of sections of Chapter 9 of Title 16 of such Code are amended to read as follows: "16-905. Revocation and enlargement of decree of legal separation."

Sec. 104. (a) Section 16-907 of the D.C. Code (1973 Edition) is amended to read as follows:

"(a) The term 'legitimate' or 'legitimated' means that the parent-child relationship exists for all rights, privileges, duties, and obligations under the laws of the District of Columbia.

(b) The term 'born out of wedlock' solely describes the circumstances that a child has been born to parents who, at the time of its birth, were not married to each other. The term 'born in wedlock' solely describes the circumstances that a child has been born to parents who, at the time of its birth, were married to each other."

(b) The heading of section 16-907 and the reference thereto in the table of sections of Chapter 9 of Title 16 of such Code are amended to read as follows: "16-907. Parent and child relationship defined."

Section 105. (a) Section 16-908 of the D.C. Code (1973 Edition) is amended to read as follows:

"A child born in wedlock or born out of wedlock is the legitimate child of its father and mother and is the legitimate relative of its father's and mother's relatives by blood or adoption."

(b) The heading of section 16-908 and the reference thereto in the table of sections of Chapter 9 of Title 16 of such Code are amended to read as follows: "16-908. Relationship not dependent on marriage."

Sec. 106. (a) Section 16-909 of the D.C. Code (1973 Edition) is amended to read as follows:

"(a) A child's relationship to its mother is established by its birth to her. A child's relationship to its father is established by proving by a preponderance of evidence that he is the father, and there shall be a presumption that he is the father:

(1) if he and the child's mother are or have been married and the child is born during the marriage, or within 300 days after the termination of marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court; or

(2) if, prior to the child's birth, he and the child's mother have attempted to marry, and some form of marriage has been performed in apparent compliance with law, though such attempted marriage is or might be declared void for any reason, and the child is born during such attempted marriage, or within 300 days after the termination of such

attempted marital cohabitation by reason of death, annulment, divorce, or separation ordered by a court; or

(3) if, after the child's birth, he and the child's mother marry or attempt to marry, (with the attempt involving some form of marriage ceremony that has been performed in apparent compliance with law), though such attempted marriage is or might be declared void for any reason, and he has acknowledged the child to be his.

(b) If questioned, a presumption created by subsection (a) (1) - (3) may be tried and determined by the Superior Court.

(c) Upon the entry of a final judgment determining the parentage of a child by the Superior Court under the provisions of section 16-2341, et seq., or by any other court of competent jurisdiction, the parent-child relationship is conclusively established.

(d) The parent-child relationship between an adoptive parent and a child may be established conclusively by proof of adoption."

(b) The heading of section 16-909 and the reference thereto in the table of sections of Chapter 9 of Title 16 of such Code are

amended to read as follows: "16-909. Proof of child's relationship to mother and father."

Sec. 107. Section 16-910 of the D.C. Code (1973 Edition) is amended to read as follows:

"Upon the entry of a final decree of annulment or divorce in the absence of a valid ante-nuptial or post-nuptial agreement or a decree of legal separation disposing the property of the spouses, the court shall:

(a) assign to each party his or her sole and separate property acquired prior to the marriage, and his or her sole and separate property acquired during the marriage by gift, bequest, devise, or descent, and any increase thereof, or property acquired in exchange therefor; and

(b) distribute all other property accumulated during the marriage, regardless of whether title is held individually or by the parties in a form of joint tenancy or tenancy by the entireties, in a manner that is equitable, just and reasonable, after considering all relevant factors including, but not limited to: the duration of the marriage, any prior marriage of either party, the age, health, occupation, amount and sources of income, vocational skills, employability, assets, debts, and needs of each of the parties, provisions for the custody of minor children, whether the distribution is in lieu

of or in addition to maintenance, and the opportunity of each for future acquisition of assets and income.

The court shall also consider each party's contribution to the acquisition, preservation, appreciation, dissipation or depreciation in value of the assets subject to distribution under this subsection, and each party's contribution as a homemaker or to the family unit.

Sec. 108. (a) Section 16-911 of the D.C. Code (1973 Edition), as amended, is further amended by adding "(a)" to the beginning thereof.

(b) Paragraph (1) of section 16-911 of such Code, as amended, is further amended by striking every word after 'attachment' and inserting in lieu thereof: ", garnishment and/or imprisonment for disobedience;"

(c) Paragraph (3) of section 16-911 of such Code is amended by striking the word "and" at the end thereof and by adding a new paragraph (4) to read as follows:

"(4) If a party under court order to make payments under this section is in arrears, order the party to make an assignment of part of his or her salary, wages, earnings or other income to the person entitled to receive the payments; and"

(d) Paragraph (4) of section 16-911 of such Code, as amended,

is renumbered as paragraph "(5)" and further amended by adding to the end thereof the following:

"In determining the care and custody of infant children, the best interest of the child shall be the primary consideration. To determine the best interest of the child, the court shall consider all relevant factors including, but not limited to:

- (1) the wishes of the child as to his or her custodian, where practicable,
- (2) the wishes of the child's parent or parents as to the child's custody,
- (3) the interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest,
- (4) the child's adjustment to his or her home, school, and community,
- (5) the mental and physical health of all individuals involved.

(e) Section 16-911 of such Code, as amended, is further amended by adding to the end thereof the following:

"(b) The attachment, garnishment, or assignment

under paragraphs (1) and (4) of subsection (a) is binding on the employer, trustee, or other payor of salary, wages, earnings, or other income. No employer shall discharge or otherwise discipline an employee because of such attachment, garnishment, or assignment.

"(c) Upon its own motion or upon motion of either party, the court may order at any time, that maintenance or support payments be made to the clerk of the court for remittance to the person entitled to receive the payments."

Sec. 109. Section 16-914 of the D.C. Code (1973 Edition), as amended, is further amended by inserting "(a)" at the beginning thereof and by adding to the end thereof the following:

"In determining the care and custody of infant children, the best interest of the child shall be the primary consideration. To determine the best interest of the child, the court shall consider all relevant factors including, but not limited to:

- (1) the wishes of the child as to his or her custodian, where practicable,
- (2) the wishes of the child's parent or parents as to the child's custody,
- (3) the interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may emotionally or psychologically affect the child's best interest,

(4) the child's adjustment to his or her home, school, and community,

(5) the mental and physical health of all individuals involved.

(b) Notice of a custody proceeding shall be given to the child's parents, guardian, or other custodian. The court, upon a showing of good cause, may permit intervention by any interested party."

Sec. 110 (a) Section 16-918 of the D.C. Code (1973 Edition) is amended to read as follows:

"(a) In all cases under this chapter, where the court deems it necessary or proper, a disinterested attorney may be appointed by the court to enter his appearance for the defendant and actively defend the cause.

"(b) In any proceeding wherein the custody of a child is in question, the court may appoint a disinterested attorney to appear on behalf of the child and represent his best interests.

"(c) An attorney appointed under this section may receive such compensation for his services as the court determines to be proper, which the court may order to be paid by either or both of the parties.

"(d) Notwithstanding any other provision of law or any rule of court, the appearance of an attorney in any action under this chapter before a court of original jurisdiction shall be deemed to have terminated for the purpose of service of any motion, process, or any other pleading, upon completion of the case ending in a judgment, adjudication, decree, or final order from which no appeal has been taken when the time allowed for an appeal expires, and, if notice of appeal has been entered, upon the date of the final disposition of the appeal. There shall be no action required of any person or attorney under this subsection, but the court having jurisdiction over the matter may suspend the termination of the appearance on its own motion, or on the motion of any party to the case prior to the expiration of the time for appeal."

(b) The heading of section 16-918 and the reference thereto in the table of sections of Chapter 9 of Title 16 of the D.C. Code are amended to read as follows: "16-918. Appointment of counsel; compensation; termination of appointment."

Sec. 111. (a) Chapter 9 of Title 16 of the D.C. Code (1973 Edition) is amended by adding to the end thereof the following:

"16-923. Abolition of action for breach of promise, alienation of affections, and criminal conversation.

Causes of action for breach of promise, alienation of affections, and criminal conversation are hereby abolished."

(b) The table of sections of Chapter 9 of Title 16 of the D.C. Code is amended by adding to the end thereof the following: "16-923. Abolition of action for breach of promise, alienation of affections, and criminal conversation."

Sec. 112 (a) Section 16-2345 of the D.C. Code (1973 Edition) is amended by striking therefrom "before the Commissioner of the District of Columbia or his designated agent, or has been acknowledged in an affidavit sworn to by the husband before a judge or the clerk of a court of record, or before an officer of the armed forces of the United States authorized to administer oaths, and the affidavit is delivered to the Commissioner or his designated agent" and inserting in lieu thereof: "or when the parenthood of a child born out of wedlock has been established by judicial process or by acknowledgement by the person whose parenthood is thus determined".

(b) Section 16-2345 of such Code is amended by inserting before the last sentence thereof the following: "The new birth certificate shall nowhere on its face show that the parentage has been established by judicial process or by acknowledgement".

(c) The heading of section 16-2345 and the reference thereto in the table of sections of Subchapter II of Chapter 23 of Title 16 of such Code are amended to read as follows: "16-2345. New birth record upon

marriage or determination of natural parents."

Sec. 113. (a) Section 1291 of the Act of March 3, 1901 (D.C. Code, sec. 30-110) is amended by striking "names, ages, and color" and inserting in lieu thereof "names and ages".

(b) Section 1296 of the Act of March 3, 1901 (D.C. Code, sec. 30-116) is repealed.

Sec. 114. Section 20 of the Act of July 10, 1957 (D.C. Code, sec. 30-320), as amended, is further amended by striking "under oath".

Sec. 115. The Act of September 14, 1965 (D.C. Code, sec. 21-104 (1973 Edition)), as amended, is further amended by inserting the words "or marries" immediately after the words "becomes 18 years of age".

TITLE II

Sec. 201. (a) Section 13-340 (a) of the D.C. Code (1973 Edition), is amended by adding to the end thereof the following: "In actions for divorce in which service by publication is authorized under this chapter, and satisfactory evidence is presented to the court that the plaintiff is unable to pay the cost of publishing an advertisement pursuant to D.C. Code sec. 13-340, without substantial hardship to himself or herself, or to his or her family, the court may direct that such publication may be made by posting the order of publication defined in D.C. Code sec. 13-339, for a period of twenty-one calendar days, in the Clerk's Office of the Family Division of the Superior Court of the District of Columbia."

(b) Section 13-340 (b) of the D.C. Code (1973 Edition) is amended by inserting after the word "advertisement" the following "or the order of the publication posted pursuant to subsection (a) of this section".

Sec. 202. (a) Section 15-712 of the D. C. Code (1973 Edition) is amended to read as follows:

"(a) Any District of Columbia court may authorize the commencement, prosecution or defense of any non-criminal suit, action or proceeding, or appeal therein, without prepayment of fees and costs or security therefor, including the fees for transcripts on appeal, by a person who is unable to pay such costs or give security therefor without substantial hardship to himself or herself or his or her family, as established by affidavit or other proof satisfactory to the court."

"(b) Any person who makes an affidavit as provided in subsection (a) and states therein that he or she receives public assistance under the District of Columbia Aid to Families with Dependent Children or General Public Assistance Programs, or receives assistance under Title XVI of the Social Security Act (Supplemental Security Income) (76 Stat. 197) shall be presumed eligible to proceed without prepayment of fees and costs or security therefor."

(b) The heading of section 15-712 and the reference thereto, in the table of sections of Chapter 7 of Title 15 of the D.C. Code are amended to read as follows: "15-712. proceedings in Forma Pauperis."

TITLE III

Sec. 301. This act shall take effect pursuant to the provisions of section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act.

Considered in Council November 22, 1976
 Amended First Reading

Amended First Vote November 22, 1976

RECORD OF COUNCIL VOTE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER	X				DIXON	X				SPAULDING	X			
MOORE, D.		X			HARDY	X				WILSON	X			
BARRY	X				HOBSON	X				WINTER	X			
CLARKE	X				MOORE, J.				X					
COATES				X	SHACKLETON	X								

X—Indicates Vote A. B.—Absent N. V.—Not Voting

Robert A. Williams
 (Secretary of the Council)

Final Vote in Council December 7, 1976

RECORD OF COUNCIL VOTE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER	X				DIXON				X	SPAULDING	X			
MOORE, D.				X	HARDY	X				WILSON				X
BARRY	X				HOBSON	X				WINTER	X			
CLARKE	X				MOORE, J.				X					
COATES				X	SHACKLETON	X								

X—Indicates Vote A. B.—Absent N. V.—Not Voting

Robert A. Williams
 (Secretary of the Council)

Presented to the Mayor DEC 17 1976

Robert A. Williams
 (Secretary of the Council)

Mayor's Action:

Approved: 4 JAN 1977
 Disapproved: _____

Walter H. H. H. 4 JAN
 (Mayor's Signature)

Enacted without Mayor's Signature _____

 (Secretary of the Council)

Reconsidered by Council _____

Vote _____

RECORD OF COUNCIL VOTE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.
TUCKER					HOBSON					SPAULDING			
HARDY					MOORE, D.					WILSON			
BARRY					MOORE, J.					WINTER			
CLARKE					ROLARK								
DIXON					SHACKLETON								

Y—Indicates Vote A. B.—Absent N. V.—Not Voting

Presented to the President _____

Sustain Mayor's Veto _____
 Not Sustain Mayor's Veto _____

Submitted to the Congress JAN 25 1977

Senate Action _____
 Resolution Number _____

 (Secretary of the Senate)

Enacted without Congressional action _____

 (Secretary of the Council)

 (Secretary of the Council)

 (Secretary of the Council)

 (President of the U. S.)

CR: [Signature]

 (Secretary of the Council)

House Action _____
 Resolution Number _____

 (Clerk of the House)