

Public Law 88-241

AN ACT

December 23, 1963  
[H. R. 4157]

To enact Part II of the District of Columbia Code, entitled "Judiciary and Judicial Procedure" codifying the general and permanent laws relating to the judiciary and judicial procedure of the District of Columbia.

D.C. Code.  
Judiciary and  
Judicial Proce-  
dure.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the general and permanent laws relating to the judiciary and judicial procedure of the District of Columbia are revised, codified, and enacted as Part II of the District of Columbia Code, "Judiciary and Judicial Procedure", and may be cited "D.C. Code §—", as follows:

PART II

JUDICIARY AND JUDICIAL PROCEDURE

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TITLE 11—ORGANIZATION AND JURISDICTION  
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CHAPTER 1—GENERAL PROVISIONS

Sec.

11-101. Judicial power.

§ 11-101. Judicial power

The judicial power in the District of Columbia is vested in:

- (1) inferior courts, namely,  
The District of Columbia Court of General Sessions;  
The Juvenile Court of the District of Columbia; and
- (2) superior courts, namely,  
The District of Columbia Court of Appeals;  
The United States District Court for the District of Columbia;  
The United States Court of Appeals for the District of Columbia  
Circuit; and  
The Supreme Court of the United States.

## CHAPTER 3—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

### SUBCHAPTER I—COURT OFFICERS AND EMPLOYEES

Sec.

11-301. Deputy clerks signing for clerk; authentication.

11-302. Reporter; general duties.

### SUBCHAPTER II—JURISDICTION

11-321. Appellate jurisdiction.

### SUBCHAPTER III—MISCELLANEOUS PROVISIONS

11-341. Distribution of reports; sale.

#### Subchapter I—Court Officers and Employees

##### § 11-301. Deputy clerks signing for clerk; authentication

The deputy clerks for the United States Court of Appeals for the District of Columbia Circuit may sign the name of the clerk of the court to any official act required by law or by the practice of the court to be performed by the clerk, and may authenticate his signature by affixing the seal of the court thereto when the impress of the seal is necessary to its authentication. In such a case the signature shall be—

By \_\_\_\_\_, Clerk.  
\_\_\_\_\_, Deputy Clerk.

##### § 11-302. Reporter; general duties

The United States Court of Appeals for the District of Columbia Circuit may appoint a reporter, who shall serve during the pleasure of the court, and who shall report, edit, and publish the court's opinions, in a form prescribed by it.

#### Subchapter II—Jurisdiction

##### § 11-321. Appellate jurisdiction

(a) In addition to its jurisdiction otherwise conferred by law, the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the District of Columbia Court of Appeals, including judgments of that court rendered on review of orders and decisions of the administrative agencies of the District of Columbia specified by section 11-742(a).

(b) A party aggrieved by a judgment of the District of Columbia Court of Appeals may seek a review thereof by the United States Court of Appeals for the District of Columbia Circuit by petition for the allowance of an appeal.

#### Subchapter III—Miscellaneous Provisions

##### § 11-341. Distribution of reports; sale

(a) The reporter of the United States Court of Appeals for the District of Columbia Circuit shall furnish and deliver one copy of each volume of the reports of the opinions of the court, immediately after publication, to each judge of the following courts in the District:

- (1) The United States Court of Appeals;
- (2) The United States District Court;
- (3) The District of Columbia Court of Appeals;
- (4) The Court of General Sessions;
- (5) The Juvenile Court; and
- (6) The Tax Court of the United States.

and the copies so received by each judge shall, upon his death, resignation, retirement, or removal from office, be delivered to his successor.

(b) The court shall approve the sale price for the reports of its opinions at not more than \$6.50 per volume.

## CHAPTER 5—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

### SUBCHAPTER I—COURT OFFICERS AND EMPLOYEES

Sec.

11-501. Appointment of auditor, messengers, and other officers.

11-502. Duties of deputy clerks.

11-503. Secretarial and clerical assistants for United States Commissioners; expenses.

11-504. Register of Wills; oath; bond; clerk of Probate Court.

11-505. Powers and duties of Register of Wills; restrictions; penalties.

11-506. Deputies and other employees under Register of Wills; duties.

### SUBCHAPTER II—JURISDICTION

11-521. Civil and criminal jurisdiction.

11-522. Probate and guardianship jurisdiction.

11-523. Concurrent jurisdiction of desertion and nonsupport cases.

### SUBCHAPTER III—MISCELLANEOUS PROVISIONS

11-541. Seal of Probate Court.

## Subchapter I—Court Officers and Employees

### § 11-501. Appointment of auditor, messengers, and other officers

The United States District Court for the District of Columbia may appoint an auditor for the court, a messenger for each judge, and all officers of the court necessary for the due administration of justice.

### § 11-502. Duties of deputy clerks

The clerk of the United States District Court for the District of Columbia may designate deputy clerks to perform his duties in his name, who may sign his name to any official act required by law or by the practice of the court to be performed by the clerk, and may authenticate the signature by affixing the seal of the court thereto when the seal is necessary to its authentication. In such a case the signature shall be—

By \_\_\_\_\_, Clerk.  
\_\_\_\_\_ , Deputy Clerk.

### § 11-503. Secretarial and clerical assistants for United States Commissioners; expenses

Each United States commissioner for the District may employ secretarial and clerical assistants in such number and incur such other expenses as the District Court considers necessary.

### § 11-504. Register of Wills; oath; bond; clerk of Probate Court

(a) The United States District Court for the District of Columbia shall appoint, and may remove, a Register of Wills, who shall take an oath for the faithful and impartial discharge of the duties of his office. The office of the Register of Wills is a part of the District Court, and chapter 41 of Title 28, United States Code, applies thereto.

(b) The Register of Wills shall give bond, with two or more sureties, to be approved by the chief judge of the court, in the sum of \$5,000:

(1) faithfully to discharge the duties of his office; and

(2) seasonably to record (A) the decrees and orders of the court in any of the matters over which the court exercises its jurisdiction or powers as the Probate Court, (B) all wills

proved before him or the court, and (C) all other matters directed to be recorded in the court or in his office.

The bond shall be entered in full upon the minutes of the court, and the original filed with the records thereof.

(c) The Register of Wills shall:

(1) act as clerk of the court in all matters over which the court exercises its jurisdiction or powers as the Probate Court;

(2) keep and certify the court's records in those matters; and

(3) generally, with respect to those matters, exercise the powers and perform the duties that might otherwise properly be exercised or performed by the regular clerk of the court.

**§ 11-505. Powers and duties of Register of Wills; restrictions; penalties**

(a) The Register of Wills may:

(1) receive inventories and accounts of sales, examine vouchers, and state accounts of executors, administrators, collectors, and guardians, subject to final approval by the court;

(2) take the probate of claims against the estates of deceased persons that are properly brought before him, and approve or reject claims not exceeding \$300; and

(3) take the probate of wills and accept the bonds of executors, administrators, collectors, and guardians, subject to approval by the court.

(b) In matters over which the court has jurisdiction or exercises powers as the Probate Court, the Register of Wills shall:

(1) make full and fair entries of the proceedings of the Court;

(2) make a fair record in a strong-bound book of all wills proved before him or the court, and of other matters required by law to be recorded in the court;

(3) lodge original papers filed with him in a place of safety appointed by the court;

(4) make out and issue every summons, process, and order of the court;

(5) make fair tables of his fees, and post them in a conspicuous place in his office for the inspection of persons having business therein;

(6) in every respect, act under the control and direction of the court; and

(7) pay into the treasury all fees, costs, and other moneys collected by him, except uncollected fees not required by law to be prepaid, and make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by the Director.

(c) The Register of Wills may not:

(1) practice law in any court of the District or of the United States; or

(2) demand or receive any fee, gratuity, gift, or reward, for giving his advice in any matter relating to his office.

(d) The Register of Wills shall forfeit the sum of \$10 for each day that the tables referred to in clause (5) of subsection (b) of this section are missing through his neglect, which may be recovered as other debts for the same amount are recoverable. Of the amount so paid or recovered, one-half shall be for the use of the District, and one-half shall be for the use of the informer.



(e) If the Register of Wills or a person acting for him takes a greater fee than the fee provided for by law, he shall pay to the party injured \$50, which may be recovered as other debts for the same amount are recoverable.

**§ 11-506. Deputies and other employees under Register of Wills; duties**

(a) The Register of Wills, with the approval of the court, may appoint necessary deputies, clerical assistants and other employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. With the approval of the court, the Register of Wills may remove any of the personnel so appointed.

(b) The personnel appointed pursuant to this section shall be under the supervision and control of the Register of Wills, and shall perform such duties as he or the court directs. The deputies may perform acts necessary in the administration of the office of the Register of Wills and the certification of the records of the court which the Register may perform.

**Subchapter II—Jurisdiction**

**§ 11-521. Civil and criminal jurisdiction**

(a) Except in actions or proceedings over which exclusive jurisdiction is conferred by law upon other courts in the District, the United States District Court for the District of Columbia, in addition to its jurisdiction as a United States district court and to any other jurisdiction conferred by law, has all the jurisdiction possessed and exercised by it on January 1, 1964, and has original jurisdiction of all:

- (1) civil actions between parties, where either or both of them are resident or found within the District; and
- (2) offenses committed within the District.

(b) Except as otherwise specially provided, an action may not be brought in the District Court by original process against a person who is not resident or found within the District.

**§ 11-522. Probate and guardianship jurisdiction**

(a) The United States District Court for the District of Columbia has and may exercise all the power and jurisdiction by law held and exercised by the Orphans' Court of Washington County, District of Columbia, prior to June 21, 1870.

(b) In addition to the jurisdiction conferred by subsection (a) of this section, the District Court has full power and authority and plenary jurisdiction to:

(1) hear and determine questions relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the court, and admit them to probate and record;

(2) take the proof of wills of either personal or real property and admit them to probate and record, and for cause revoke the probate thereof;

(3) grant, and, for any of the causes prescribed by law, revoke, letters testamentary, letters of administration, letters ad colligendum, and letters of guardianship, and appoint successors to those persons whose letters are revoked;

(4) hear, examine, and decree upon accounts, claims, and demands existing between executors or administrators

and legatees, or persons entitled to a distributive share of an intestate estate, or between wards and their guardians;

(5) enforce the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court; and

(6) enforce the distribution of estates by executors and administrators, and the payment or delivery by guardians of money or property belonging to their wards.

(c) Neither the execution nor the validity of a will or testament admitted to probate and record in the court may be impeached or examined collaterally. Subject to other provisions of this Part or other provisions of law, it is res judicata in all respects and to all persons.

(d) In exercising its powers and jurisdiction under this section, the District Court is known as the Probate Court.

(e) This section does not affect the jurisdiction conferred upon the Juvenile Court of the District of Columbia by section 11-1551(a)(3).

#### **§ 11-523. Concurrent jurisdiction of desertion and nonsupport cases**

The United States District Court for the District of Columbia has original jurisdiction, concurrently with the Juvenile Court of the District of Columbia, of all cases arising under sections 22-903 to 22-905, relating to desertion or nonsupport.

34 Stat. 86;  
44 Stat. 716.

### **Subchapter III—Miscellaneous Provisions**

#### **§ 11-541. Seal of Probate Court**

The Probate Court shall keep a seal for the court, and for the office of the Register of Wills. The seal shall be affixed to all certificates of the Probate Court, or of the Register, and to every process and writ of every kind issued from it.

## **CHAPTER 7—DISTRICT OF COLUMBIA COURT OF APPEALS**

### **SUBCHAPTER I—CONTINUATION AND ORGANIZATION**

Sec.

11-701. Continuation of court; court of record; seal.

11-702. Composition; appointment, qualifications, tenure, salaries, and oath of judges; removal.

11-703. Absence, disability, or disqualification of judges; vacancies; quorum.

11-704. Clerks for judges; compensation.

### **SUBCHAPTER II—COURT OFFICERS AND EMPLOYEES**

11-721. Clerk; compensation; powers and duties.

11-722. Deputy clerks and other employees; compensation; duties.

### **SUBCHAPTER III—JURISDICTION**

11-741. Orders and judgments of Court of General Sessions and Juvenile Court.

11-742. Administrative orders and decisions.

### **SUBCHAPTER IV—MISCELLANEOUS PROVISIONS**

11-761. Contempt powers.

11-762. Oaths, affirmations and acknowledgments.

### **Subchapter I—Continuation and Organization**

#### **§ 11-701. Continuation of court; court of record; seal**

(a) The District of Columbia Court of Appeals shall continue as a court of record in the District.

(b) The court shall have a seal.

**§ 11-702. Composition; appointment, qualifications, tenure, salaries, and oath of judges; removal**

(a) The District of Columbia Court of Appeals shall consist of a chief judge and two associate judges appointed by the President of the United States, by and with the advice and consent of the Senate.

(b) A person may not be appointed as a judge of the court unless he:

(1) is a bona fide resident of the area consisting of the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the city of Alexandria, Virginia, and has maintained an actual place of abode in the area for at least five years prior to his appointment; and

(2) has been actively engaged in the practice of law in the District of Columbia for a period of at least five years immediately prior to his appointment.

(c) Each judge shall be appointed or reappointed for a term of ten years, which terms shall be staggered as heretofore provided for; and he shall continue in office until the appointment and qualification of his successor.

(d) The chief judge shall receive an annual salary of \$19,000, and each associate judge shall receive an annual salary of \$18,500.

(e) Each judge, when appointed, shall take the oath prescribed for judges of courts of the United States.

(f) A judge may be removed only in the manner and for the causes provided for the removal of Federal judges.

**§ 11-703. Absence, disability, or disqualification of judges; vacancies; quorum**

(a) When a judge of the District of Columbia Court of Appeals is absent, disabled, or disqualified, or when there is a vacancy in the office of judge of the court, the chief judge may designate and assign any judge of the District of Columbia Court of General Sessions to act temporarily as a judge of the court.

(b) When the chief judge of the court is absent, disabled, or disqualified, the judge next in seniority according to the date of his commission shall exercise his powers.

(c) Two judges of the court constitute a quorum.

**§ 11-704. Clerks for judges; compensation**

Each judge of the District of Columbia Court of Appeals may appoint and remove a personal clerk and shall fix his compensation in accordance with the Classification Act of 1949, as amended.

63 Stat. 954.  
5 USC 1071  
note.

**Subchapter II—Court Officers and Employees**

**§ 11-721. Clerk; compensation; powers and duties**

The District of Columbia Court of Appeals shall appoint, and may remove, a clerk, and shall fix his compensation in accordance with the Classification Act of 1949, as amended.

The clerk shall exercise the same powers and perform the same duties in regard to matters within the jurisdiction of the court as are exercised and performed by the clerk of the United States Court of Appeals for the District of Columbia Circuit, as far as the latter may be applicable.

**§ 11-722. Deputy clerks and other employees; compensation; duties**

Subject to the approval of the chief judge, the clerk of the District of Columbia Court of Appeals may appoint and remove such deputy clerks and other employees of the court as he deems necessary. The chief judge shall fix the compensation of the personnel so appointed in accordance with the Classification Act of 1949, as amended.

The clerk shall supervise and direct the deputies and employees so appointed.

63 Stat. 954.  
5 USC 1071  
note.

**Subchapter III—Jurisdiction****§ 11-741. Orders and judgments of Court of General Sessions and Juvenile Court**

(a) The District of Columbia Court of Appeals has jurisdiction of appeals from:

(1) final orders and judgments of the District of Columbia Court of General Sessions, including final orders and judgments of the Small Claims and Conciliation Branch and the Domestic Relations Branch of that court;

(2) interlocutory orders of the District of Columbia Court of General Sessions, including interlocutory orders of the Domestic Relations Branch of that court, whereby the possession of property is changed or affected, such as orders dissolving writs of attachment and the like; and

(3) final orders and judgments of the Juvenile Court of the District of Columbia.

(b) Except as provided by subsection (c) of this section, a party aggrieved by an order or judgment specified by subsection (a) of this section may appeal therefrom as of right to the District of Columbia Court of Appeals.

(c) Reviews of judgments of the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions, and of judgments in the criminal division of that court where the penalty imposed is less than \$50, shall be by application for the allowance of an appeal, filed in the District of Columbia Court of Appeals.

**§ 11-742. Administrative orders and decisions**

(a) In addition to other jurisdiction conferred upon it by law, the District of Columbia Court of Appeals has exclusive jurisdiction to review the following orders and decisions of administrative agencies of the District:

(1) decisions of the Board of Pharmacy refusing to renew a license to practice pharmacy or refusing to renew a permit to deal in poisons for use in the arts or as insecticides pursuant to section 2-606;

44 Stat. 1414.

(2) decisions of the Board of Examiners in Veterinary Medicine revoking or suspending a license to practice veterinary medicine or a branch thereof pursuant to section 2-810;

34 Stat. 873.

(3) orders of the Commissioners of the District of Columbia or their agent or decisions of the Commissioners denying, revoking, or suspending a motor-vehicle operator's permit pursuant to section 40-302;

43 Stat. 1125.

(4) decisions of the Board of Examiners and Registrars of Architects annulling or revoking a certificate to practice architecture pursuant to section 2-1028;

Post, p. 616.

(5) orders of the Commissioners of the District of Columbia denying, revoking, or suspending a license for a private employment agency pursuant to section 47-2101;

47 Stat. 559.



(6) decisions of the Commission on Licensure to Practice the Healing Art in the District of Columbia denying a license or a registration to practice the healing art pursuant to section 2-129;

45 Stat. 1338.

(7) decisions of the Nurses' Examining Board denying registration or reregistration of a nurse or school of nursing pursuant to section 2-406;

45 Stat. 1520.

(8) decisions of the Board of Barber Examiners revoking or refusing to issue, renew, or restore a certificate of registration as a registered barber or barber apprentice pursuant to section 2-1110; and

52 Stat. 622.

(9) final decisions of the Real Estate Commission of the District of Columbia denying an application for license or suspending or revoking a license pursuant to sections 45-1403 to 45-1418.

50 Stat. 788;

53 Stat. 1354.

(b) A party aggrieved by an order or decision specified by subsection (a) of this section may obtain a review thereof in the District of Columbia Court of Appeals.

(c) Upon the filing of a written petition for review praying that an order or decision specified by this section be set aside, the District of Columbia Court of Appeals has jurisdiction of the proceeding.

#### Subchapter IV—Miscellaneous Provisions

##### § 11-761. Contempt powers

The District of Columbia Court of Appeals, or a judge thereof, may punish for disobedience of an order, or for contempt committed in the presence of the court, by a fine not exceeding \$50 or imprisonment not exceeding 30 days.

##### § 11-762. Oaths, affirmations and acknowledgments

Each judge, the clerk, and each deputy clerk of the court may administer oaths and affirmations and take acknowledgments.

### CHAPTER 9—DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

#### SUBCHAPTER I—CONTINUATION AND ORGANIZATION

Sec.

11-901. Continuation of court; court of record; divisions; seal.

11-902. Composition; appointment, qualifications, tenure, salaries, and oath of judges; removal.

11-903. Administration by chief judge; discharge of duties.

11-904. Designation and assignment of judges; sessions.

11-905. Absence, disability, or disqualification of chief judge.

11-906. Vacations for judges.

11-907. Meetings and reports.

11-908. Clerks for judges; compensation.

#### SUBCHAPTER II—COURT OFFICERS AND EMPLOYEES

11-931. Clerk; compensation; general duties.

11-932. Deputy clerks and other employees; compensation; supervision; process; powers.

11-933. Probation officer; compensation, powers and duties.

11-934. Assistant probation officers and other employees; compensation; supervision.

11-935. Reporters' fees for transcripts.

#### SUBCHAPTER III—JURISDICTION

11-961. Civil jurisdiction.

11-962. Transfer of civil actions to Court of General Sessions.

11-963. Criminal jurisdiction; commitment.

## SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

Sec.

- 11-981. Power of judges to issue warrants returnable to Criminal Division; record.  
11-982. Compelling attendance of witnesses; contempt powers; subpoenas.  
11-983. Oaths, affirmations and acknowledgments.  
11-984. Receipt and care of deposits for costs, and fees; payment of fines, costs, etc., to clerk; deposit; accounting.  
11-985. Audit of accounts.

## Subchapter I—Continuation and Organization

**§ 11-901. Continuation of court; court of record; divisions; seal**

(a) The District of Columbia Court of General Sessions shall continue as a court of record in the District. The court shall consist of a civil division and a criminal division.

(b) The court shall have a seal.

**§ 11-902. Composition; appointment, qualifications, tenure, salaries, and oath of judges; removal**

(a) The District of Columbia Court of General Sessions shall consist of a chief judge and fifteen associate judges appointed by the President of the United States, by and with the advice and consent of the Senate.

(b) A person may not be appointed as a judge of the court unless he:

(1) is a bona fide resident of the area consisting of the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the city of Alexandria, Virginia, and has maintained an actual place of abode in the area for at least five years prior to his appointment; and

(2) has been a member of the bar of the District of Columbia for a period of at least five years, and, for a period of at least five consecutive years immediately prior to his appointment, either has been actively engaged in the practice of law or has been employed as an attorney in the District in the government of the United States or in the government of the District of Columbia.

(c) Each judge shall be appointed or reappointed for a term of ten years each, which terms shall be staggered as heretofore provided for; and he shall continue in office until the appointment and qualification of his successor.

(d) The chief judge shall receive an annual salary of \$18,000, and each associate judge shall receive an annual salary of \$17,500.

(e) Each judge, when appointed, shall take the oath prescribed for judges of courts of the United States.

(f) A judge may be removed only in the manner and for the causes provided for the removal of Federal judges.

**§ 11-903. Administration by chief judge; discharge of duties**

The chief judge of the District of Columbia Court of General Sessions shall administer generally and superintend the business of the court. He shall give his attention to the discharge of the duties especially pertaining to his office and to the performance of such additional judicial work as he is able to perform.

**§ 11-904. Designation and assignment of judges; sessions**

(a) The chief judge of the District of Columbia Court of General Sessions shall, from time to time and for such periods as he determines, designate the judges to preside in and attend the divisions and several branches and sessions of the court. He may:

(1) except as provided by sections 11-1103 and 11-1303, determine the number and fix the time of the various sessions of the court; and

(2) arrange the business of the court, and divide it and assign it among the judges.

Each associate judge shall attend and serve at the division, branch, or sessions of the court to which he is assigned.

(b) When the chief judge of the District of Columbia Court of Appeals finds it in the public interest to do so, he may designate and assign a judge of that court to act temporarily as a judge of the Court of General Sessions.

#### **§ 11-905. Absence, disability, or disqualification of chief judge**

When the chief judge of the District of Columbia Court of General Sessions is absent, disabled, or disqualified, his duties shall devolve upon and be performed by the associate judges of the Court according to the order of seniority of their commissions.

#### **§ 11-906. Vacations for judges**

Each judge of the District of Columbia Court of General Sessions is entitled to vacation, not to exceed thirty-six court days in a calendar year, to be taken at times determined by the chief judge.

#### **§ 11-907. Meetings and reports**

(a) The judges of the District of Columbia Court of General Sessions shall meet together at least once each month for the consideration of those matters pertaining to the administration of justice in the court which may be brought before them. The chief judge shall fix the times for the meetings.

(b) Each associate judge shall submit to the chief judge a monthly written report, in a form prescribed by the chief judge, of the duties performed by him, specifying:

(1) the number of days attendance in court of the judge during the month covered;

(2) the branch courts upon which he attended;

(3) the number of hours per day of his attendance; and

(4) such other data as the chief judge requires.

(c) The chief judge shall submit to the Attorney General of the United States and to the Commissioners of the District of Columbia a quarterly written report of the business of the court and of the duties performed by each judge of the court during the preceding three months. A copy of the report shall be filed in the office of the clerk of the court and shall be available and subject to public inspection during business hours.

#### **§ 11-908. Clerks for judges; compensation**

Each judge of the District of Columbia Court of General Sessions may appoint and remove a personal clerk and shall fix his compensation in accordance with the Classification Act of 1949, as amended.

### **Subchapter II—Court Officers and Employees**

#### **§ 11-931. Clerk; compensation; general duties**

(a) The District of Columbia Court of General Sessions may appoint and remove a clerk, and shall fix his compensation in accordance with the Classification Act of 1949, as amended.

(b) In addition to performing any other duties prescribed by law, rules of court, or order of the chief judge, the clerk of the Court of General Sessions shall keep such dockets and records and perform such other duties as the court prescribes.

**§ 11-932. Deputy clerks and other employees; compensation; supervision; process; powers**

(a) Subject to the approval of the chief judge, the clerk of the District of Columbia Court of General Sessions may appoint and remove such deputy clerks and other employees of the court as he deems necessary. The chief judge shall fix the compensation of the personnel so appointed in accordance with the Classification Act of 1949, as amended.

(b) The deputies and employees appointed under subsection (a) of this section shall be under the supervision and direction of the clerk.

(c) In all civil actions in the Court of General Sessions, process shall be signed by the clerk or deputy clerks in the name of the court. The deputy clerks may sign the name of the clerk to any official act required by law or by practice of the court to be performed by the clerk. In such case, the signature shall be: "\_\_\_\_\_," Clerk, by \_\_\_\_\_,

Deputy Clerk".

63 Stat. 954.  
5 USC 1071  
note.

**§ 11-933. Probation officer; compensation, powers and duties**

The District of Columbia Court of General Sessions may appoint and remove a probation officer of the court, and shall fix his compensation in accordance with the Classification Act of 1949, as amended.

The probation officer shall exercise such powers and perform such duties as may be prescribed by law.

**§ 11-934. Assistant probation officers and other employees; compensation; supervision**

Subject to the approval of the chief judge, the probation officer of the District of Columbia Court of General Sessions may appoint and remove such assistant probation officers and other employees of the probation office as he deems necessary. The chief judge shall fix the compensation of the personnel so appointed in accordance with the Classification Act of 1949, as amended.

The probation officer shall supervise and direct the assistants and employees so appointed.

**§ 11-935. Reporters' fees for transcripts**

In addition to their annual salaries, official reporters for the District of Columbia Court of General Sessions may charge and collect from parties, including the United States and the District of Columbia, who request transcripts of the original records of proceedings, only such fees as may be prescribed from time to time by the court. The official reporters shall furnish all supplies at their own expense. The court shall prescribe such rules, practice, and procedure pertaining to fees for transcripts as it deems necessary, conforming as nearly as practicable to the rules, practice, and procedure established for the United States District Court for the District of Columbia. A fee may not be charged or taxed for a copy of a transcript delivered to a judge at his request or for copies of a transcript delivered to the clerk of the court for the records of the court. Except as to transcripts that are to be paid for by the United States or the District of Columbia, the reporters may require a party requesting a transcript to prepay the estimated fee therefor in advance of delivery of the transcript.

**Subchapter III—Jurisdiction****§ 11-961. Civil jurisdiction**

(a) In addition to other jurisdiction conferred upon it by law, the District of Columbia Court of General Sessions has exclusive jurisdiction of civil actions, including civil actions against executors, ad-



ministrators and other fiduciaries, in which the claimed value of personal property or the debt or damages claimed does not exceed the sum of \$10,000, exclusive of interest and costs, as well as of all cross-claims and counterclaims interposed in all actions over which it has jurisdiction, regardless of the amount involved.

It does not have jurisdiction of:

- (1) cases involving title to real property, except as provided in section 11-1141;
  - (2) actions against judges of the Court of General Sessions or other officers for official misconduct; or
  - (3) counterclaims, crossclaims, or any other claims whether or not arising out of the same transaction or occurrence and interposed in actions over which the United States District Court for the District of Columbia has jurisdiction.
- (b) Within the limits of its jurisdiction provided by subsection (a) of this section, the Court of General Sessions has jurisdiction of cases of trespass upon or injury to real property. If the defendant, in such a case, files with the court an affidavit that he claims title to the property, setting forth the nature of his title, the court may not take further cognizance of the case.

(c) The Court of General Sessions has jurisdiction over all civil cases properly pending in the Municipal Court for the District of Columbia on January 1, 1963.

#### **§ 11-962. Transfer of civil actions to Court of General Sessions**

In a civil action commenced in the United States District Court for the District of Columbia, other than an action for equitable relief, where it appears to the satisfaction of the court at or subsequent to any pretrial hearing but prior to trial thereof that the action will not justify a judgment in excess of \$10,000, the court may certify the action to the District of Columbia Court of General Sessions for trial. The pleadings in the action, together with a copy of the docket entries and copies of any orders entered therein, and the deposit for costs, shall be sent to the clerk of the Court of General Sessions. Promptly thereafter, the Court of General Sessions shall call the case for trial. The Court of General Sessions shall thereafter treat the case as though it had been filed originally in that court, except that the jurisdiction of the court shall extend to the amount claimed in the action, even though it exceed the sum of \$10,000.

#### **§ 11-963. Criminal jurisdiction; commitment**

(a) Except as otherwise expressly provided by this section or other law, the District of Columbia Court of General Sessions has original jurisdiction, concurrently with the United States District Court for the District of Columbia, of:

(1) offenses committed in the District for which the punishment is by fine only or by imprisonment for one year or less; and

(2) offenses against municipal ordinances or regulations in force in the District.

(b) The Court of General Sessions does not have jurisdiction of the offenses of libel, conspiracy, or violation of the postal or pension laws of the United States.

(c) In all cases, whether cognizable in the Court of General Sessions or in the District Court, the Court of General Sessions has jurisdiction to make preliminary examination and commit offenders or grant bail in bailable cases, either for trial or for further examination.

(d) The Court of General Sessions has jurisdiction of all criminal cases properly pending in the Municipal Court for the District of Columbia on January 1, 1963.

**Subchapter IV—Miscellaneous Provisions****§ 11-981. Power of judges to issue warrants returnable to Criminal Division; record**

Each judge of the District of Columbia Court of General Sessions may, at any time, including Sundays and legal holidays, on complaint under oath or actual view, issue warrants returnable to the criminal division of the court against persons accused of crimes and offenses committed in the District of Columbia. In every such case, he shall make a record of his proceedings in a book to be kept for that purpose. The warrants shall be issued free of charge.

**§ 11-982. Compelling attendance of witnesses; contempt powers; subpoenas**

(a) The District of Columbia Court of General Sessions may compel the attendance of witnesses by attachment, and, in any civil or criminal case or proceeding in the court, the judge may punish for disobedience of an order, or for contempt committed in the presence of the court, by a fine not exceeding \$50 or imprisonment not exceeding 30 days.

(b) At the request of any party subpoenas for attendance at a hearing or trial in the District of Columbia Court of General Sessions shall be issued by the clerk of the court. A subpoena may be served at any place within the District of Columbia, or at any place without the District of Columbia that is within 25 miles of the place of the hearing or trial specified in the subpoena. The form, issuance and manner of service of a subpoena shall be as otherwise prescribed by Rule 45 of the Federal Rules of Civil Procedure.

28 USC app.

**§ 11-983. Oaths, affirmations, and acknowledgments**

Each judge of the District of Columbia Court of General Sessions may administer oaths and affirmations and take acknowledgments. The clerk of the court and his deputies may administer oaths and affirmations and take acknowledgments in all cases pending in the court or about to be filed therein.

**§ 11-984. Receipt and care of deposits for costs, and fees; payment of fines, costs, etc., to clerk; deposit; accounting**

(a) The clerk of the District of Columbia Court of General Sessions shall receive and care for all deposits for costs made and fees exacted under the rules governing the fee charges in the civil division of the court, and shall make a weekly deposit with the Board of Commissioners or its authorized representative of all fees earned during the preceding week. The money so collected shall be covered into the Treasury to the credit of the District of Columbia.

(b) The clerk shall return to parties making the deposits specified by subsection (a) of this section any part of a deposit that remains in his hands over and above the earned fees in completed cases, and shall render an itemized statement to the Board of Commissioners or its authorized representative of every fee earned, on forms and in the manner prescribed by the Board or its authorized representative. Any part of a deposit remaining in the clerk's hands for a period of three years, for which claim has not been made by the party entitled to receive it, shall revert to the District of Columbia, and shall be paid forthwith by the clerk to the Board or its authorized representative as part of the revenues of the District.

(c) Fines, penalties, costs, and forfeitures imposed or taxed in the criminal division of the Court of General Sessions shall be paid to the clerk, either with or without process or on process ordered by the court. On the first secular day of each week, the clerk shall deposit with the Board of Commissioners or its authorized representative the total

amount thereof collected by him during the week next preceding the date of the deposit, to be covered into the Treasury to the credit of the District of Columbia. The clerk shall render an itemized statement of each deposit upon forms and in the manner prescribed by the Board or its authorized representative.

(d) Moneys collected in the criminal division of the Court of General Sessions remaining in the hands of the clerk for a period of two years or more, for which claim has not been made by the parties entitled thereto, shall revert to the District of Columbia, and shall be paid by the clerk to the Board of Commissioners or its authorized representative, to be covered into the Treasury to the credit of the District of Columbia.

#### **§ 11-985. Audit of accounts**

The Board of Commissioners of the District of Columbia, or its authorized representative, shall audit the accounts of the clerk of the District of Columbia Court of General Sessions at the end of every quarter, and in the performance of this duty shall have access to all books, papers, and records of the court.

### **CHAPTER 11—DOMESTIC RELATIONS BRANCH OF COURT OF GENERAL SESSIONS**

#### **SUBCHAPTER I—CONTINUATION AND ORGANIZATION**

**Sec.**

11-1101. Continuation of Branch.

11-1102. Judges; assignment.

11-1103. Sessions.

#### **SUBCHAPTER II—OFFICERS AND EMPLOYEES**

11-1121. Clerk and other personnel.

11-1122. Duties of clerk regarding docket.

#### **SUBCHAPTER III—JURISDICTION**

11-1141. Exclusive jurisdiction.

#### **SUBCHAPTER IV—MISCELLANEOUS PROVISIONS**

11-1161. Powers of Branch.

#### **Subchapter I—Continuation and Organization**

#### **§ 11-1101. Continuation of Branch**

The Domestic Relations Branch of the District of Columbia Court of General Sessions shall continue as a branch in the civil division of the court.

#### **§ 11-1102. Judges; assignment**

The Domestic Relations Branch of the District of Columbia Court of General Sessions shall consist of three judges of the court, who shall serve in that branch during their tenures of office, but if the chief judge of the court finds the work of the Domestic Relations Branch will not be adversely affected thereby, he may assign any judge of the Domestic Relations Branch to perform the duties of any other judge of the court. The chief judge of the court may assign any other judge of the court to serve temporarily in the Domestic Relations Branch if he finds the work of the Domestic Relations Branch requires the assignment.

#### **§ 11-1103. Sessions**

The Domestic Relations Branch, with at least one judge in attendance, shall be open for the transaction of business every day of the year except Saturday afternoons, Sundays, and legal holidays, and, if deemed necessary, may also hold night sessions.

## Subchapter II—Officers and Employees

### § 11-1121. Clerk and other personnel

The judges of the Domestic Relations Branch, with the approval of the chief judge of the District of Columbia Court of General Sessions, may appoint and remove a clerk and such other personnel as may be necessary for the operation of the Branch.

### § 11-1122. Duties of clerk regarding docket

The clerk serving in the Domestic Relations Branch of the District of Columbia Court of General Sessions shall keep a separate docket for the Branch, in which he shall record the steps taken at each stage of actions or proceedings instituted or conducted in the Branch.

## Subchapter III—Jurisdiction

### § 11-1141. Exclusive jurisdiction

(a) The Domestic Relations Branch of the District of Columbia Court of General Sessions and each judge sitting therein has exclusive jurisdiction of:

(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

(2) applications for revocation of divorce from bed and board;

(3) civil actions to enforce support of minor children;

(4) civil actions to enforce support of wife;

(5) actions seeking custody of minor children;

(6) actions to declare marriages void;

(7) actions to declare marriages valid;

(8) actions for annulments of marriage;

(9) determinations and adjudications of property rights, both real and personal, in any action hereinabove referred to in this section, irrespective of any jurisdictional limitation imposed on the Court of General Sessions;

(10) proceedings in adoption; and

(11) proceedings under the Uniform Reciprocal Enforcement of Support Act, chapter 3 of Title 30.

(b) This chapter does not affect or diminish the jurisdiction of the Juvenile Court of the District of Columbia, or of any judge presiding therein.

## Subchapter IV—Miscellaneous Provisions

### § 11-1161. Powers of Branch

The Domestic Relations Branch of the District of Columbia Court of General Sessions has all of the legal and equitable powers necessary to effectuate the purposes of this chapter, chapters 3 and 9 of Title 16, chapters 1 and 3 of Title 30, and section 32-786, including but not limited to, the power to:

(1) issue restraining orders and injunctions, writs of habeas corpus and ne exeat, and all other writs, orders, and decrees; and

(2) enforce and execute its judgments, orders, and decrees.



## CHAPTER 13—SMALL CLAIMS AND CONCILIATION BRANCH OF COURT OF GENERAL SESSIONS

### SUBCHAPTER I—CONTINUATION AND ORGANIZATION

#### Sec.

- 11-1301. Continuation of Branch.
- 11-1302. Service of Court of General Sessions judges; rotation.
- 11-1303. Sessions.

### SUBCHAPTER II—OFFICERS AND EMPLOYEES

- 11-1321. Clerk.
- 11-1322. Separate docket; entries.
- 11-1323. Records and reports.

### SUBCHAPTER III—JURISDICTION

- 11-1341. Exclusive jurisdiction of small claims; limitations.
- 11-1342. Settlement of disputes by arbitration and conciliation.
- 11-1343. Certification of cases by Court of General Sessions judges; recertification.

### Subchapter I—Continuation and Organization

#### § 11-1301. Continuation of Branch

The Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions shall continue as a branch in the civil division of the court.

#### § 11-1302. Service of Court of General Sessions judges; rotation

One or more judges of the District of Columbia Court of General Sessions shall serve in the Small Claims and Conciliation Branch for such periods and in such order of rotation as the chief judge of the court determines.

#### § 11-1303. Sessions

The Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions, with a judge in attendance, shall be open for the transaction of business on every day of the year except Saturday afternoons, Sundays, and legal holidays, and shall also hold at least one night session during each week.

### Subchapter II—Officers and Employees

#### § 11-1321. Clerk

The District of Columbia Court of General Sessions may assign a deputy clerk or other assistant to the clerk of the court to serve as clerk of the Small Claims and Conciliation Branch.

#### § 11-1322. Separate docket; entries

The clerk of the Small Claims and Conciliation Branch shall keep a separate docket for the Branch, in which he shall record every proceeding and ruling had in each case.

#### § 11-1323. Records and reports

The clerk of the Small Claims and Conciliation Branch shall maintain a daily record of all transactions had therein and shall prepare and transmit to the Attorney General of the United States a monthly report in detail showing the number and nature of all such transactions.

### Subchapter III—Jurisdiction

#### § 11-1341. Exclusive jurisdiction of small claims; limitations

The Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions has exclusive jurisdiction over all cases within the jurisdiction of the court in which the amount of the plaintiff's claim or the claimed value of personal property in controversy does not exceed \$150 exclusive of interest, attorney fees, protest fees, and costs. This jurisdiction does not include actions for recovery of the possession of real estate, whether or not such actions include a claim for arrears of rent, or personalty, or both arrears of rent and personalty.

#### § 11-1342. Settlement of disputes by arbitration and conciliation

In order to effect the speedy settlement of controversies, and with the consent of all parties thereto, the Small Claims and Conciliation Branch may settle cases, irrespective of the amount involved, by the methods of arbitration and conciliation. The judges of the Branch may also act as referees or arbitrators, either alone or in conjunction with other persons, pursuant to rule 53 of the Federal Rules of Civil Procedure, or under Title 9, United States Code, or otherwise. A judge, officer, or employee of the District of Columbia Court of General Sessions may not accept any fee or compensation in addition to his salary for services performed pursuant to this section.

28 USC app.

#### § 11-1343. Certification of cases by Court of General Sessions judges; recertification

When the interests of justice seem to require, and all parties consent thereto, a judge of the District of Columbia Court of General Sessions may certify a case to the Small Claims and Conciliation Branch for conciliation, or to endeavor to obtain a complete or partial agreed statement of facts or stipulation, which will simplify and expedite the ultimate trial of the case. With the consent of all parties the trial of the case may be completed in the Branch, or in the absence of their consent shall be recertified to another judge of the court for trial.

## CHAPTER 15—JUVENILE COURT OF THE DISTRICT OF COLUMBIA

### SUBCHAPTER I—CONTINUATION AND ORGANIZATION

Sec.

11-1501. Continuation of court; court of record; seal.

11-1502. Appointment, qualifications, tenure, salaries, and oath of judges.

11-1503. Administration of court; absence, disability, disqualification, or death of judges.

11-1504. Terms.

### SUBCHAPTER II—COURT OFFICERS AND EMPLOYEES

11-1521. Clerk; compensation, bond, oath, and duties.

11-1522. Administration of oaths by clerk.

11-1523. Director of Social Work; compensation; qualifications; duties.

11-1524. Supervisor of Probation and other probation officers; compensation; qualifications; duties of Probation Department and officers.

11-1525. Other Court employees.

11-1526. Rules governing conduct of personnel.

### SUBCHAPTER III—JURISDICTION

11-1551. Jurisdiction of children and minors; retention.

11-1552. Transfer from other courts.

11-1553. Waiver of jurisdiction in case of felony and transfer of case.

11-1554. Jurisdiction of persons 18 years of age or over.

11-1555. Jurisdiction of paternity proceedings.

11-1556. Concurrent jurisdiction of desertion and nonsupport cases.

11-1557. Construction of chapter with respect to other jurisdiction.

## SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

- 11-1581. Contempt powers.
- 11-1582. Administration of oaths and affirmations.
- 11-1583. Duties of Corporation Counsel.
- 11-1584. Assistance and cooperation of officers, departments, institutions, and others.
- 11-1585. Payment of fines, costs, etc., to clerk; deposit; accounting.
- 11-1586. Records; limited inspection; penalties for unlawful disclosure or use.
- 11-1587. Audit of accounts.
- 11-1588. Court quarters.
- 11-1589. Quarterly reports.

## Subchapter I—Continuation and Organization

## § 11-1501. Continuation of Court; court of record; seal

- (a) The Juvenile Court of the District of Columbia shall continue as a court of record in the District.
- (b) The court shall have a seal.

## § 11-1502. Appointment, qualifications, tenure, salaries, and oath of judges

- (a) The Juvenile Court shall consist of a chief judge and two associate judges learned in the law and appointed by the President of the United States by and with the advice and consent of the Senate.
- (b) A person may not be appointed as judge of the court, unless:
  - (1) he has been a member of the bar of the District of Columbia for a period of five years preceding his appointment;
  - (2) during a period of ten years immediately preceding his appointment, he has been a resident of the District of Columbia or of the metropolitan area of the District for at least five years, of which not less than three years shall immediately precede his appointment; and
  - (3) he has a broad knowledge of social problems and procedures and an understanding of child psychology.

For the purpose of this subsection, the term "metropolitan area of the District" means Montgomery and Prince Georges Counties in Maryland, and Arlington and Fairfax Counties and the cities of Alexandria and Falls Church in Virginia.

- (c) Each judge appointed after March 9, 1962, shall serve for a term of ten years or until his successor is appointed and qualifies.
- (d) The salary of the chief judge shall be equal to the salary of the chief judge of the District of Columbia Court of General Sessions, and the salary of each associate judge shall be equal to the salary of an associate judge of that court.
- (e) Each judge, before entering upon the duties of his office, shall take the oath prescribed for judges of courts of the United States.

## § 11-1503. Administration of court; absence, disability, disqualification, or death of judges

- (a) The chief judge of the Juvenile Court shall be responsible for the administration of the court. During the temporary absence or disability of the chief judge, the associate judge of the court designated by the chief judge or acting chief judge of the United States District Court for the District of Columbia shall be responsible for the administration of the court.
- (b) Except as provided by subsection (a) of this section, when a judge of the Juvenile Court dies, or is absent, ill, or disabled to serve in any case, the chief judge or acting chief judge of the United States District Court for the District of Columbia shall designate one of the judges of the District of Columbia Court of General Sessions to

serve as a judge of the Juvenile Court until the vacancy is filled or until the removal of such disability, and the return of the regular judge of that court.

#### **§ 11-1504. Terms**

The Juvenile Court shall hold a term on the first Monday of every month and continue the term from day to day as long as may be necessary for the transaction of its business.

### **Subchapter II—Court Officers and Employees**

#### **§ 11-1521. Clerk; compensation, bond, oath, and duties**

(a) The Juvenile Court shall appoint from the eligible list of the Civil Service Commission, a clerk of the court, and shall fix his compensation in accordance with the Classification Act of 1949, as amended.

(b) The clerk shall give bond, with surety, and take the oath of office prescribed by law for clerks of the United States district courts.

(c) The clerk shall:

(1) keep accurate and complete accounts of moneys collected from persons under the supervision of the probation department, give receipts therefor, and make reports thereon as the chief judge directs; and

(2) perform other duties and keep other records as prescribed by the chief judge.

#### **§ 11-1522. Administration of oaths by clerk**

The clerk of the Juvenile Court may administer oaths and affirmations.

#### **§ 11-1523. Director of Social Work; compensation; qualifications; duties**

(a) The Juvenile Court shall appoint, from the eligible list of the Civil Service Commission, a Director of Social Work, and shall fix his compensation in accordance with the Classification Act of 1949, as amended. The Director must have the qualifications prescribed by the Civil Service Commission pursuant to the Classification Act of 1949, as amended.

(b) Under the administrative direction of the chief judge, the Director of Social Work shall:

(1) have charge of all the social work of the court; and

(2) in association with other social agencies of the District of Columbia, study sources and causes of delinquency and assist in developing and correlating community-wide plans for the prevention and treatment of delinquency.

#### **§ 11-1524. Supervisor of Probation and other probation officers; compensation; qualifications; duties of Probation Department and officers**

(a) The Juvenile Court shall appoint, from eligible lists of the Civil Service Commission, a Supervisor of Probation and such other probation officers as it deems necessary, and shall fix their compensation in accordance with the Classification Act of 1949, as amended. The Supervisor of Probation and probation officers must have the qualifications prescribed by the Civil Service Commission pursuant to the Classification Act of 1949, as amended.

(b) Under the direction of the Director of Social Work, the Supervisor of Probation shall organize, direct, and develop the work of the Probation Department of the court.

63 Stat. 954.  
5 USC 1071  
note.



(c) The Probation Department shall:

- (1) make such investigations as the court directs;
- (2) keep written records of investigations and submit them to a judge of the court or deal with them as he directs;
- (3) use all suitable methods to aid persons on probation and bring about improvement in their conduct and condition; and
- (4) keep informed concerning the conduct and condition of each person under its supervision and report thereon to the court as it directs, and the Department shall keep full records of its work.

(d) For the purposes of this chapter, probation officers have the powers of police officers, and have such duties as may be assigned to them in the course of performing the functions of the Probation Department.

**§ 11-1525. Other court employees**

The Juvenile Court shall appoint, from eligible lists of the Civil Service Commission, such other employees of the court as it deems necessary, and shall fix their compensation in accordance with the Classification Act of 1949, as amended. Employees appointed pursuant to this section must have the qualifications prescribed by the Civil Service Commission pursuant to the Classification Act of 1949, as amended.

**§ 11-1526. Rules governing conduct of personnel**

The Juvenile Court may issue all necessary orders and writs in aid of its jurisdiction as prescribed by law, and may adopt and publish rules governing its procedure and the conduct of its officers and employees. The rules shall be enforced and construed beneficially for the remedial purposes of this chapter and chapter 23 of Title 16.

**Subchapter III—Jurisdiction**

**§ 11-1551. Jurisdiction of children and minors; retention**

(a) Except as herein otherwise provided, the Juvenile Court has original and exclusive jurisdiction of all cases and in proceedings:

(1) concerning a child as defined by section 16-2301:

(A) who has violated a law, or has violated an ordinance or regulation of the District of Columbia;

(B) who is habitually beyond the control of his parent, guardian, or custodian;

(C) who is habitually truant from school or home;

(D) who habitually so departs himself as to injure or endanger himself or the morals or safety of himself or others;

(E) who is abandoned by his parent, guardian, or custodian;

(F) who is homeless or without adequate parental support or care, or whose parent, guardian, or custodian neglects or refuses to provide support and care necessary for his health or welfare;

(G) whose parent, guardian, or custodian neglects or refuses to provide or avail himself of the special care made necessary by his mental condition;

(H) who associates with vagrants, or vicious or immoral persons;

(I) who engages in an occupation, or is in a situation, dangerous to life or limb or injurious to the health or morals of himself or others;

(2) subject to applicable statutes of limitation, concerning a minor 18 years of age or older who is charged with:

(A) having violated any law; or

(B) having violated any ordinance or regulation of the District of Columbia—

prior to his having become 18 years of age; and

(3) to determine the custody or guardianship of the person of a child coming within the provisions of this section and subchapter I of chapter 23 of Title 16; but the provisions of this clause do not deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or when the custody is incidental to the determination of causes pending therein.

(b) When jurisdiction is obtained by the Juvenile Court in the case of a child under 18 years of age at the time of the offense, the child shall continue under the jurisdiction of the court until he becomes 21 years of age unless the court discharges him prior thereto. This subsection does not affect the jurisdiction of other courts over offenses committed by the child after he reaches the age of 18 years.

#### **§ 11-1552. Transfer from other courts**

When during the pendency of a criminal or quasi-criminal charge against a person under 21 years of age, in another court, it is ascertained that the person was under the age of 18 years at the time of the alleged offense, the court shall forthwith transfer the case, together with all the papers, documents, and testimony connected therewith, to the Juvenile Court. The court making the transfer shall order the minor to be taken forthwith to the place of detention designated by the Juvenile Court or to that court itself, or release the minor to the custody of a suitable person to appear before the Juvenile Court at a time designated. The Juvenile Court shall thereupon proceed to hear and dispose of the case in the same manner as if it had been instituted in that court in the first instance.

#### **§ 11-1553. Waiver of jurisdiction in case of felony and transfer of case**

When a child 16 years of age or over is charged with an offense which if committed by a person 18 years of age or over is a felony, or when a child under 18 years of age is charged with an offense which if committed by a person 18 years of age or over is punishable by death or life imprisonment, a judge may, after full investigation, waive jurisdiction and order the child held for trial under the regular procedure of the court which would have jurisdiction of the offense if committed by a person 18 years of age or over; or the other court may exercise the powers conferred upon the Juvenile Court by this chapter and subchapter I of chapter 23 of Title 16 in conducting and disposing of such cases.

#### **§ 11-1554. Jurisdiction of persons 18 years of age or over**

The Juvenile Court has original and exclusive jurisdiction to determine cases of persons 18 years of age or over charged with willfully contributing to, encouraging, or tending to cause by any act or omission, a condition which would bring a child under the age of 18 years within the provisions of section 11-1551.

#### **§ 11-1555. Jurisdiction of paternity proceedings**

The Juvenile Court has original and exclusive jurisdiction of proceedings to determine paternity of any child alleged to have been born out of wedlock and to provide for his support in the manner provided by subchapter II of chapter 23 of Title 16.

**§ 11-1556. Concurrent jurisdiction of desertion and nonsupport cases**

The Juvenile Court has original jurisdiction, concurrently with the United States District Court for the District of Columbia, of all cases arising under sections 22-903 to 22-905, relating to desertion or nonsupport.

34 Stat. 86;  
44 Stat. 716.

**§ 11-1557. Construction of chapter with respect to other jurisdiction**

This chapter does not limit the jurisdiction vested in the Juvenile Court:

43 Stat. 806.

(1) by section 31-213, with respect to cases arising under sections 31-201 to 31-212, relating to compulsory school attendance and work permits;

45 Stat. 998.

(2) by section 36-228, with respect to cases arising under sections 36-201 to 36-227, relating to child labor and work permits; or  
(3) by any other provision of law.

**Subchapter IV—Miscellaneous Provisions****§ 11-1581. Contempt powers**

The Juvenile Court may punish, as a contempt, a willful violation, neglect, or disobedience of any of its orders by a fine not exceeding \$200 or imprisonment not exceeding six months, or by both.

**§ 11-1582. Administration of oaths and affirmations**

The judges or acting judges of the Juvenile Court may administer oaths and affirmations.

**§ 11-1583. Duties of Corporation Counsel**

(a) The Corporation Counsel of the District of Columbia or any of his assistants shall:

(1) upon request, assist the Juvenile Court in hearings arising under section 11-1551;

(2) institute and prosecute proceedings and cases arising under section 11-1555 and subchapter II of chapter 23 of Title 16, relating to the establishment of paternity and provision for support of children born out of wedlock; and

(3) prosecute cases arising under sections 11-1554 and 11-1556 and the sections specified by section 11-1557, in which a person 18 years of age or over is charged with an offense.

(b) As used in this section, "Corporation Counsel" means the attorney for the District of Columbia, by whatever title the attorney may be known, designated by the Board of Commissioners of the District of Columbia to perform the functions prescribed for the Corporation Counsel in this section.

**§ 11-1584. Assistance and co-operation of officers, departments, institutions, and others**

Every officer and department of the District of Columbia is required to render all assistance and co-operation within his or its jurisdictional power which may further the objects of this chapter and subchapter I of chapter 23 of Title 16. Institutions or agencies to which the Juvenile Court sends a child are required to give to the court or to any officer appointed by it such information or reports concerning the child as the court or officer requires. The court may seek the co-operation of societies or organizations having for their object the protection or aid of children.

**§ 11-1585. Payment of fines, costs, etc., to clerk; deposit; accounting**

Fines, penalties, costs, and forfeitures imposed or taxed by the Juvenile Court shall be paid to the clerk of the court, either with or without process, or on process ordered by the court. The clerk of the court shall, on the first secular day of each week, deposit with the Board of Commissioners or its authorized representative the total amount of all fines, penalties, costs, and forfeitures collected by him during the week next preceding the date of the deposit, to be covered into the Treasury to the credit of the District of Columbia. The clerk shall render an itemized statement of each deposit to the Board or its authorized representative.

**§ 11-1586. Records; limited inspection; penalties for unlawful disclosure or use**

(a) The Juvenile Court shall maintain records of all cases brought before the court pursuant to subchapter I of chapter 23 of Title 16. The records shall be withheld from indiscriminate public inspection but shall be open to inspection only by respondents, their parents or guardians and their duly authorized attorneys, and by the institution or agency to which the respondent under 18 years of age may have been committed pursuant to sections 16-2307 and 16-2308.

Pursuant to rule or special order of the court, other interested persons, institutions, and agencies may inspect the records. As used in this subsection, "records" includes:

- (1) notices filed with the court by arresting officers pursuant to section 16-2306;
- (2) the docket of the court and entries therein;
- (3) the petitions, complaints, informations, motions, and other papers filed in a case;
- (4) transcripts of testimony taken in a case tried by the Court;
- (5) findings, verdicts, judgments, orders and decrees; and
- (6) other writings filed in proceedings before the court, other than social records.

(b) The records or parts thereof made by officers of the court pursuant to sections 11-1525 and 16-2302, referred to in subsection (a) of this section as social records, shall be withheld from indiscriminate public inspection, except that they shall be made available by rule or special order of court to such persons, governmental and private agencies, and institutions as have a legitimate interest in the protection, welfare, treatment, and rehabilitation of the child under 18 years of age, and to any court before which the child may appear. The court may also provide by rule or a judge may provide by special order that any such person or agency may make or receive copies of the records or parts thereof. Persons, agencies, or institutions receiving records or information pursuant to this subsection may not publish or use them for any purpose other than that for which they were received.

(c) Whoever, except for the purposes permitted and in the manner provided by subsections (a) and (b) of this section, discloses, receives, or makes use of, or authorizes, knowingly permits, participates in, or acquiesces in, the use of information concerning a juvenile before the court, directly or indirectly derived from the records, papers, files, or communications of the court, or acquired in the course of official duties, upon conviction thereof, shall be guilty of a misdemeanor, and shall be fined not more than \$100 or imprisoned not more than ninety days, or both.



(d) Prosecutions pursuant to subsection (c) of this section shall be brought in the name of the District of Columbia in the District of Columbia Court of General Sessions by the Corporation Counsel or any of his assistants. As used in this subsection, "Corporation Counsel" has the same meaning as that prescribed by section 11-1583(b).

(e) Except on order of the court, the records or proceedings in a case arising under subchapter II of chapter 23 of Title 16 may not be open to inspection by anyone other than the defendant or counsel of record. The court, upon proper showing, may authorize the clerk to furnish certified copies of the records or portions thereof to the defendant, the mother, or custodian of the child, a party in interest, or their duly authorized attorneys. The clerk may furnish certified copies of the records or portions thereof, upon request, to the United States attorney for the District of Columbia for use as evidence in nonsupport proceedings as provided by sections 11-523, 11-1556, 16-2355, and 16-2381 and to the Director of Public Health as provided by section 16-2354(a).

#### **§ 11-1587. Audit of accounts**

The Board of Commissioners of the District of Columbia, or its authorized representative, shall audit the accounts of the clerk of the Juvenile Court at the end of every quarter, and in the performance of this duty shall have free access to all books, papers, and records of the court.

#### **§ 11-1588. Court quarters**

The Board of Commissioners of the District of Columbia shall provide suitable quarters for the hearing of cases by the Juvenile Court, and for the use of the judges and the probation department and employees of the court.

#### **§ 11-1589. Quarterly reports**

The chief judge or the acting chief judge of the Juvenile Court shall submit to the Attorney General of the United States and to the President of the Board of Commissioners of the District of Columbia a detailed quarterly report of the work of the court within thirty days of the end of the quarter, to include the number of juvenile and adult cases heard, the number of juvenile and adult cases calendared, the number of juvenile and adult complaints filed, the number of juvenile cases closed without court hearing, moneys collected for fines and support of legitimate and illegitimate family members, and such other information as may reflect the court's operation and volume of work. A copy of the report shall be kept in the office of the clerk of the court and be subject to public inspection during the regular business hours of the court.

### **CHAPTER 17—MISCELLANEOUS PROVISIONS RELATING TO COURTS AND JUDGES**

**Sec.**

**11-1701. Retirement, resignation, or non-reappointment of judges; recall.**

#### **§ 11-1701. Retirement, resignation, and non-reappointment of judges; recall**

(a) A judge of the District of Columbia Court of Appeals, the District of Columbia Court of General Sessions, or the Juvenile Court of the District of Columbia who, after having served as a judge of the court for a period or periods aggregating twenty years or more, whether continuously or not, retires, resigns, or fails of reappointment upon the expiration of his term of office, shall receive annually in equal monthly installments, during the remainder

of his life, a sum equal to such proportion of his salary at the date of his retirement, resignation, or failure of reappointment upon the expiration of his term of office as the total of his aggregate years of service bears to the period of thirty years, to be paid in the same manner as his salary. The sum so received by him may not exceed his salary at the date his service ceases.

(b) In computing the years of service pursuant to this section, service in either the Police Court of the District of Columbia or the Municipal Court of the District of Columbia, or the Juvenile Court of the District of Columbia, as constituted prior to July 1, 1942, or the Municipal Court of Appeals for the District of Columbia, or the Municipal Court for the District of Columbia, as constituted prior to January 1, 1963, shall be included whether or not the service is continuous.

(c) A judge receiving retirement salary pursuant to this section may be called upon by the chief judge of the District of Columbia Court of Appeals or the chief judge of the District of Columbia Court of General Sessions to perform such judicial duties as may be requested of him in either of those courts, or in the Juvenile Court of the District of Columbia; but a retired judge shall not be required to render service for more than ninety days in a calendar year after retirement. In case of illness or disability precluding the rendering of service the retired judge shall be fully relieved of service during his illness or disability.

## CHAPTER 19—CORONER

### Sec.

11-1901. Definition.

11-1902. Inquests; exceptions; jury.

11-1903. Witnesses; attachment; contempt.

11-1904. Testimony reduced to writing in certain cases; recognizances; returns.

11-1905. Monthly reports of inquests; delivery of property.

11-1906. Fees of witnesses and jurors; allowances.

### § 11-1901. Definition

As used in this chapter, "coroner" means the Board of Commissioners of the District of Columbia or the officer or agency designated by the Board to perform the functions prescribed by this chapter.

### § 11-1902. Inquests; exceptions; jury

(a) Except as provided by subsection (b) of this section, the coroner shall hold an inquest over the body of each person found dead in the District when the manner and cause of death is not already known as accidental or in the course of nature.

(b) The coroner may not summon or hold a jury of inquest over the body of a deceased person where it is known that the deceased came to his death by suicide, accident, mischance, or natural causes; except that where it is not known that the deceased came to his death by suicide the coroner may summon a jury.

(c) A coroner's jury shall consist of six persons.

### § 11-1903. Witnesses; attachment; contempt

The coroner may summon witnesses from any part of the District to appear before him for the purpose of giving evidence, and may compel their attendance by attachment. He may punish for disobedience of a lawful order, or for a contempt committed in his presence, by a fine of not more than \$50 or imprisonment of not more than 30 days.

**§ 11-1904. Testimony reduced to writing in certain cases; recognizances; returns**

Upon an inquisition taken before the coroner, where a person is charged with having unlawfully caused the death of the person on whom the inquest is held, the coroner shall:

- (1) reduce the testimony of the witnesses to writing; and
- (2) if the jury find that murder or manslaughter has been committed on the deceased, require such witnesses as he deems proper to give a recognizance to appear and testify in the United States District Court for the District of Columbia; and
- (3) return to the United States District Court the inquisition and testimony and recognizance taken by him.

**§ 11-1905. Monthly reports of inquests; delivery of property**

The coroner shall:

- (1) make a monthly report to the Board of Commissioners of the District of all inquests held by him during the immediately preceding month, with a description as far as may be of the age, sex, color, and nationality of deceased persons and the causes of their death, and with particulars as may be necessary to their identification; and
- (2) as soon as possible after holding an inquest, deliver to the property clerk of the Metropolitan Police Department all moneys and other property and effects found upon the person of anyone on whom he holds an inquest.

**§ 11-1906. Fees of witnesses and jurors; allowances**

Witnesses and jurors lawfully summoned in an inquest shall receive the fees and travel and subsistence allowances as may be fixed, with respect to witnesses, by chapter 119 of Title 28, United States Code, and, with respect to jurors, by section 1871 of Title 28, United States Code.

**CHAPTER 21—ATTORNEYS**

**Sec.**

- 11-2101. Admission to bar; regulations; oath.  
 11-2102. Censure, suspension, or disbarment by District Court for cause.  
 11-2103. Disbarment by District Court upon conviction of crime.  
 11-2104. Censure, suspension, or disbarment by other courts.  
 11-2105. Procedure for censure, suspension, or disbarment.

**§ 11-2101. Admission to bar; regulations; oath**

The United States District Court for the District of Columbia may make such rules as it deems proper respecting the examination, qualification, and admission of persons to membership in its bar, and their censure, suspension, and expulsion. Every person so admitted, before he is permitted to practice therein, shall take and subscribe the following oath:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will demean myself as a member of the bar of this court uprightly and according to law; and that I will support the Constitution of the United States."

**§ 11-2102. Censure, suspension, or disbarment by District Court for cause**

The United States District Court for the District of Columbia may censure, suspend from practice, or expel a member of its bar for crime, misdemeanor, fraud, deceit, malpractice, professional misconduct, or conduct prejudicial to the administration of justice. A fraudulent act or misrepresentation by an applicant in connection with his application or admission is sufficient cause for the revocation by the court of his admission.

**§ 11-2103. Disbarment by District Court upon conviction of crime**

When a member of the bar of the United States District Court for the District of Columbia is convicted of an offense involving moral turpitude, and a duly certified copy of the final judgment of the conviction is presented to the court, the name of the member so convicted may thereupon, by order of the court, be struck from the roll of the members of the bar, and he shall thereafter cease to be a member thereof. Upon appeal from a judgment of conviction, and pending the final determination of the appeal, the court may order the suspension from practice of the convicted member of the bar; and upon a reversal of the conviction, or the granting of a pardon, the court may vacate or modify the order of disbarment or suspension.

**§ 11-2104. Censure, suspension, or disbarment by other courts**

The District of Columbia Court of Appeals, and the District of Columbia Court of General Sessions, may censure, suspend, or expel an attorney from practice, at their respective bars, for a crime involving moral turpitude, or professional misconduct, or conduct prejudicial to the administration of justice.

**§ 11-2105. Procedure for censure, suspension, or disbarment**

A member of the bar may not be censured, suspended, nor expelled as provided by section 11-2102 or 11-2104, until written charges, under oath, against him have been presented to the court, stating distinctly the grounds of complaint. The court may order the charges to be filed in the office of the clerk of the court and shall fix a time for hearing thereon. Thereupon a certified copy of the charges and order shall be served upon the member personally by the United States marshal or such other person as the court designates, or if it is established to the satisfaction of the court that personal service can not be had, a certified copy of the charges and order shall be served upon him by mail, publication, or otherwise as the court directs. After the filing of the written charges the court may suspend the person charged from practice at its bar pending the trial thereof.

**CHAPTER 23—JURORS AND JURY COMMISSIONERS**

Sec.

11-2301. Qualifications of jurors.

11-2302. Exemptions.

11-2303. Jury commission; appointment, qualifications, oath, tenure, compensation, and removal.

11-2304. Record of names; jury box; custody.

11-2305. Selection of jurors.

11-2306. Manner of drawing.

11-2307. Substitution in case of vacancies.

11-2308. Disposition of box after drawing; excuse from further service.

11-2309. Filling vacancies; deficiencies in panel.

11-2310. Talesmen from bystanders.

11-2311. Summoning jurors.

11-2312. Length of service.

11-2313. Fees of jurors; allowances.

11-2314. Marshal to have charge; deputies.

**§ 11-2301. Qualifications of jurors**

(a) Any citizen of the United States who has attained the age of 21 years and who has resided for a period of one year within the District of Columbia is competent to serve as a grand or petit juror in courts of the District unless he:

(1) has been convicted in a State, territorial, or federal court of record, or court of the District, of a crime punishable by imprisonment for more than one year, and his civil rights have not been restored by pardon or amnesty;

(2) is unable to read, write, speak and understand the English language; or



(3) is incapable by reason of mental or physical infirmities to render efficient jury service.

(b) An otherwise qualified person is not disqualified from jury service by reason of sex, but a woman may not be compelled so to serve.

#### **§ 11-2302. Exemptions**

The following persons are exempt from jury service:

(1) members in active service in the armed forces of the United States;

(2) members of the fire and police departments of the United States and of the District of Columbia;

(3) public officers in the executive, legislative, or judicial branch of the Government of the United States or the Government of the District of Columbia who are actively engaged in the performance of official duties;

(4) attorneys-at-law in active practice;

(5) ministers of the gospel and clergymen of every denomination;

(6) physicians and surgeons in active practice;

(7) keepers of charitable institutions created by or under the laws relating to the District of Columbia; and

(8) persons employed on vessels navigating the waters of the District of Columbia.

All other persons, otherwise qualified according to law, whether employed in the service of the Government of the United States or of the District of Columbia, all officers and enlisted men of the National Guard of the District of Columbia, both active and retired, all officers and enlisted men in the reserve components of the armed forces of the United States, all notaries public, all postmasters, and those who are the recipients or beneficiaries of a pension or other gratuity from the Federal or District Government or who have contracts with the United States or the District of Columbia, are qualified to serve as jurors in the District of Columbia and are not exempt from jury service.

#### **§ 11-2303. Jury commission; appointment, qualifications, oath, tenure, compensation, and removal**

(a) The jury commission shall continue in the District of Columbia.

(b) The commission consists of three commissioners appointed by the United States District Court for the District of Columbia.

(c) Any person may be appointed a jury commissioner if he:

(1) is a citizen of the United States;

(2) is an actual resident of the District, and has been domiciled therein for at least three years prior to his appointment;

(3) owns real property in the District;

(4) is not engaged in the practice of law; and

(5) at the time of his appointment, is not a party to any cause pending in a court of the District.

A person otherwise qualified is not disqualified from service as a jury commissioner by reason of sex, but a woman may not be compelled so to serve.

(d) Jury commissioners shall be appointed or reappointed for terms of three years each, staggered so that one commissioner will be appointed each year; and they shall continue in office until the appointment and qualification of their successors.

(e) Each jury commissioner shall receive \$10 per day for each day or fraction of a day when he is actually engaged in the performance of his duties, not to exceed five days in a month, nor \$250 in a year, which shall be paid, upon the commissioner's certificate, by the United States marshal for the District of Columbia.

(f) Each jury commissioner, when appointed, shall take an oath of office prescribed by the District Court.

(g) The District Court may summarily remove a jury commissioner for:

- (1) absence, inability, or failure to perform his duties; or
- (2) misfeasance or malfeasance in office—

and may appoint another person for the unexpired term.

(h) If a jury commissioner is ill or otherwise unable to perform the duties of his office, or is absent from the District, the remaining two commissioners may perform the duties of the commission.

#### **§ 11-2304. Record of names; jury box; custody**

(a) The jury commission shall:

- (1) make and preserve a record of the list of names of grand and petit jurors, including the names of commissioners and jurors in condemnation proceedings, for service in all the courts of the District having cognizance of jury trials and condemnation proceedings;

- (2) write the names of the jurors, including the names of commissioners and jurors in condemnation proceedings, on separate and similar pieces of paper, which they shall so fold or roll that the names can not be seen, and place them in a jury box to be provided for the purpose;

- (3) thereupon seal the jury box, and after thoroughly shaking it, deliver it to the clerk of the United States District Court for the District of Columbia for safekeeping;

- (4) have custody and control of the jury box;

- (5) keep a sealed record, in alphabetical form, of all names remaining in the jury box from time to time, and deposit the record for safekeeping in the office of the clerk of the District Court when the commission is not in session.

(b) Only the commission may unseal or open the jury box, or have access to the record required by clause (5) of subsection (a) of this section.

#### **§ 11-2305. Selection of jurors**

The jury commission shall select the jurors and commissioners specified by section 11-2304, as nearly as may be, from intelligent and upright residents of the District.

#### **§ 11-2306. Manner of drawing**

(a) **GRAND AND PETIT JURORS FOR DISTRICT COURT.** At least ten days before the commencement of each term of the United States District Court for the District of Columbia, at which jury trials are to be had, the jury commission shall:

- (1) publicly break the seal of the jury box and draw therefrom, by lot and without previous examination, the names of such number of persons as the court directs to serve as grand and petit jurors in the court; and

- (2) forthwith certify to the clerk of the court the names of the persons so drawn as jurors.

If the United States attorney for the District of Columbia certifies in writing to the chief judge of the District Court, or, in his absence, to the presiding judge, that the exigencies of the public service require it, the judge may, in his discretion, order an additional grand jury summoned, which shall be drawn at such time as he designates. Unless sooner discharged by order of the chief judge, or, in his absence, the presiding judge, the additional grand jury shall serve until the end of the term in and for which it is drawn.

(b) **NUMBER OF NAMES IN JURY BOX.** At the time of each drawing of jurors by the jury commission, there shall be in the jury box the names of not less than six hundred qualified persons.

(c) **OTHER COURTS.** At least ten days before each term of the District of Columbia Court of General Sessions or of the Juvenile Court of the District of Columbia, at which jury trials are to be had, the jury commission shall:

(1) publicly break the seal of the jury box and draw therefrom, by lot and without examination, the names of persons to serve as petit jurors in those courts; and

(2) forthwith certify to the clerk of the District Court the names of the persons so drawn.

In each drawing of jurors under this subsection, the jury commission shall draw, for service in the Court of General Sessions, such number of names as the court directs, and for service in the Juvenile Court, at least twenty-six names.

Upon receipt of the certification referred to in this subsection, the clerk of the District Court shall certify the names to the Court of General Sessions or the Juvenile Court, as the case may be, for service as jurors for the ensuing term.

(d) The distribution, assignment, reassignment, and attendance of petit jurors in courts of the District shall be in accordance with rules prescribed by the respective courts.

#### **§ 11-2307. Substitution in case of vacancies**

When a person whose name is drawn from the jury box is dead or has removed from the District before being selected, or removes therefrom after being selected, or becomes otherwise disqualified or disabled, the jury commission shall destroy the slip containing his name, and shall draw from the box the name of another person to serve in his stead.

#### **§ 11-2308. Disposition of box after drawing; excuse from further service**

When the requisite number of jurors has been drawn, the jury commission shall seal the jury box and deliver it to the clerk of the United States District Court for the District of Columbia for safekeeping. Except in the case of persons who are excused from service or for other reasons fail to serve, the names of the persons drawn may not be placed again in the box for one year.

#### **§ 11-2309. Filling vacancies; deficiencies in panel**

When persons drawn as grand or petit jurors cannot be found, or prove to be incompetent, or are excused from service by the court for which their names were drawn, the jury commission, under the order of the court, shall draw from the box the names of other persons to take their places, and if, after the organization of the jury, vacancies occur therein, the commission shall fill them in like manner.

#### **§ 11-2310. Talesmen from bystanders**

When sufficient petit jurors are not available, the District of Columbia Court of General Sessions and the Juvenile Court have the same powers to require the United States marshal to summon a sufficient number of talesmen from the bystanders as those vested in the District Court by section 1866(a) of Title 28, United States Code.

#### **§ 11-2311. Summoning jurors**

When a petit jury has been drawn for the District of Columbia Court of General Sessions or the Juvenile Court, and the names of the jurors have been certified to the clerk of the court by the clerk of the District Court as provided by section 11-2306(c), the clerk of the former court shall issue summonses for the required number of jurors and deliver them to the United States marshal for the District for service. The marshal or his deputies shall serve each summons

and make return of service in the manner provided by section 1867 of Title 28, United States Code, with respect to summoning jurors for district courts.

71 Stat. 583.

### § 11-2312. Length of service

(a) Petit jurors summoned for service in a court of the District shall serve for such period of time and at such sessions of the court as the court directs, but, unless actually engaged as a trial juror in a particular case, may not be required to serve in the District Court or the District of Columbia Court of General Sessions for more than one month in any twelve consecutive months, or to serve in the Juvenile Court for more than three months in any twelve consecutive months.

(b) Jury service in one court does not exempt, exclude, or disqualify a person from jury service in another court, except during his term of actual service.

(c) This section does not affect the provisions of section 1869 of Title 28, United States Code, relating to frequency of petit jury service in district courts, including the United States District Court for the District of Columbia.

62 Stat. 953.

### § 11-2313. Fees of jurors; allowances

Jurors serving in the District of Columbia Court of General Sessions and the Juvenile Court shall receive the fees fixed by section 1871 of Title 28, United States Code.

71 Stat. 618.

### § 11-2314. Marshal to have charge; deputies

The United States marshal for the District shall have charge of the juries in the District of Columbia Court of General Sessions and the Juvenile Court, and may assign deputies for the purpose. The deputies shall perform such other services as the judges may require.

## TITLE 12—RIGHT TO REMEDY

### CHAPTER

#### 1. ABATEMENT AND REVIVOR

### Sec.

12-101

#### 3. LIMITATION OF ACTIONS

12-301

## CHAPTER 1—ABATEMENT AND REVIVOR

### Sec.

12-101. Survival of rights of action.

12-102. Substitution of parties.

12-103. Judgment and costs in case of new party.

12-104. Marriage of party.

### § 12-101. Survival of rights of action

On the death of a person in whose favor or against whom a right of action has accrued for any cause prior to his death, the right of action survives in favor of or against the legal representative of the deceased. In tort actions for personal injuries, the right of action is limited to damages for physical injury, excluding pain and suffering resulting therefrom.

### § 12-102. Substitution of parties

The substitution of parties in civil actions in the United States District Court for the District of Columbia and District of Columbia Court of General Sessions is governed by the Federal Rules of Civil Procedure.

28 USC app.

### § 12-103. Judgment and costs in case of new party

In all cases where a new party is made to an action, the costs which accrued before the new party was made to the action shall be taxed as part of the costs in the action, and the judgment rendered shall be the same as if the action had been originally commenced between the



persons who are parties to the action. A defendant who is made a new party to the action may not be burdened with debts, damages, or costs beyond the amount of property or assets that have descended or come to his hands from the deceased.

#### **§ 12-104. Marriage of party**

An action does not abate by the marriage of a party. On application of a party the court may, on such terms and notice as it deems proper, allow and order any amendment in the pleadings and the making of any new or additional parties that the marriage may render necessary or proper.

### **CHAPTER 3—LIMITATION OF ACTIONS**

Sec.

12-301. Limitation of time for bringing actions.

12-302. Disability of plaintiff.

12-303. Absence or concealment of defendant.

12-304. Actions stayed by court or statute.

12-305. Actions against decedents' estates.

12-306. Directions as to debts in a will.

12-307. Foreign judgments.

12-308. Actions by the United States.

12-309. Actions against District of Columbia for unliquidated damages; time for notice.

#### **§ 12-301. Limitation of time for bringing actions**

Except as otherwise specifically provided by law, actions for the following purposes may not be brought after the expiration of the period specified below from the time the right to maintain the action accrues:

- (1) for the recovery of lands, tenements, or hereditaments—15 years;
- (2) for the recovery of personal property or damages for its unlawful detention—3 years;
- (3) for the recovery of damages for an injury to real or personal property—3 years;
- (4) for libel, slander, assault, battery, mayhem, wounding, malicious prosecution, false arrest or false imprisonment—1 year;
- (5) for a statutory penalty or forfeiture—1 year;
- (6) on an executor's or administrator's bond—5 years; on any other bond or single bill, covenant, or other instrument under seal—12 years;
- (7) on a simple contract, express or implied—3 years;
- (8) for which a limitation is not otherwise specially prescribed—3 years.

#### **§ 12-302. Disability of plaintiff**

(a) Except as provided by subsection (b) of this section, when a person entitled to maintain an action is, at the time the right of action accrues:

- (1) under 21 years of age; or
- (2) noncompos mentis; or
- (3) imprisoned—

he or his proper representative may bring action within the time limited after the disability is removed.

(b) When a person entitled to maintain an action for the recovery of lands, tenements, or hereditaments, or upon an instrument under seal, is under any of the disabilities specified by subsection (a) of this section at the time the right of action accrues, he or his proper representative, except where otherwise specified herein, may bring the action within 5 years after the disability is removed, and not thereafter.

**§ 12-303. Absence or concealment of defendant**

(a) When a person who is a resident of the District of Columbia is out of the District or has absconded or concealed himself at the time a cause of action accrues against him, the period limited for the bringing of the action does not begin to run until he comes into the District or while he is so absconded or concealed.

(b) When such a person absconds or conceals himself after the cause of action accrues, the time of his absence or concealment may not be computed as a part of the period within which the action must be brought.

**§ 12-304. Actions stayed by court or statute**

When the bringing of an action is stayed by an injunction or other order of a court of justice, or by statutory prohibition, the time of the stay may not be computed as a part of the period within which the action must be brought.

**§ 12-305. Actions against decedents' estates**

In an action against the estate of a deceased person, the interval, not exceeding two years, between the death of the deceased and the granting of letters testamentary or of administration may not be computed as a part of the period within which the action must be brought.

**§ 12-306. Directions as to debts in a will**

A provision in the will of a testator devising his real estate, or part thereof, subject to the payment of his debts, or charging the same therewith, does not prevent the statute of limitations from operating against the debts, unless it plainly appears to be the testator's intention that it shall not so operate.

**§ 12-307. Foreign judgments**

An action upon a judgment or decree rendered in a State, territory, commonwealth or possession of the United States or in a foreign country is barred if by the laws of that jurisdiction, the action would there be barred and the judgment or decree would be incapable of being otherwise enforced there.

**§ 12-308. Actions by the United States**

Sections 12-301, 12-302, 12-305, and 12-307 do not apply to an action in which the United States is the real and not merely the nominal plaintiff.

**§ 12-309. Actions against District of Columbia for unliquidated damages; time for notice**

An action may not be maintained against the District of Columbia for unliquidated damages to person or property unless, within six months after the injury or damage was sustained, the claimant, his agent, or attorney has given notice in writing to the Board of Commissioners of the District of Columbia of the approximate time, place, cause, and circumstances of the injury or damage. A report in writing by the Metropolitan Police Department, in regular course of duty, is a sufficient notice under this section.

**TITLE 13—PROCEDURE GENERALLY****CHAPTER****Sec.**

1. RULES OF PROCEDURE.....	13-101
3. PROCESS AND PARTIES.....	13-301
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7. TRIAL.....	13-701

## CHAPTER 1—RULES OF PROCEDURE

Sec.

13-101. Prescription of rules by courts.

### § 13-101. Prescription of rules by courts

(a) The District of Columbia Court of Appeals, the District of Columbia Court of General Sessions, and the Juvenile Court of the District of Columbia, respectively, shall prescribe rules to provide for the forms of process, writs, pleadings, motions, and practice and procedure in those courts, to provide for efficient administration of justice. Except as otherwise provided by this section, the rules, in the case of the District of Columbia Court of Appeals and the civil division of the Court of General Sessions, shall conform as nearly as may be practicable to the forms, practice, and procedure prescribed by the Federal Rules of Civil Procedure, and, in the case of the Juvenile Court, the rules shall be enforced and construed beneficially for the remedial purposes embraced in chapter 15 of Title 11 and subchapter I of chapter 23 of Title 16.

(b) The judges of the Domestic Relations Branch of the Court of General Sessions, with the approval of the chief judge of the court, shall prescribe, by rules, the forms of process, writs, pleadings, motions, and practice and procedure in that Branch. Except as otherwise specifically provided by the rules prescribed, the applicable rules of the Federal Rules of Civil Procedure shall govern in the Branch.

(c) The Court of General Sessions shall prescribe rules to provide for a simple, inexpensive, and speedy procedure in the Small Claims and Conciliation Branch of that court to effectuate the purposes of chapter 39 of Title 16, and may prescribe, modify, and improve the forms to be used therein, from time to time, to insure the proper administration of justice and to accomplish the purposes of chapter 39 of Title 16.

(d) Rules adopted pursuant to this section by the District of Columbia Court of Appeals, the Court of General Sessions, and the Domestic Relations Branch of the Court of General Sessions may not abridge, enlarge, or modify the substantive rights of a litigant.

## CHAPTER 3—PROCESS AND PARTIES

### SUBCHAPTER I—GENERAL PROVISIONS

Sec.

13-301. Courts to which applicable.

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### SUBCHAPTER II—SERVICE OF PROCESS; LEGAL REPRESENTATIVES

13-331. Service under other laws and rules of court.

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13-337. Personal service outside District in lieu of publication.

13-338. Prerequisites for order of publication.

13-339. Form of order of publication.

13-340. Manner of publication; mailing of copy; default; appointment and compensation of guardian and attorney.

13-341. Service by publication on persons unknown to be living or dead and on unknown heirs and devisees.

**Subchapter I—General Provisions****§ 13-301. Courts to which applicable**

Except as otherwise specifically provided by law or rules of court, this chapter applies in all courts of the District of Columbia, including any branches of the courts.

**§ 13-302. Service by marshal**

Subject to the provisions of law or rules of court for service by other persons, the United States marshal for the District of Columbia or his deputy shall serve the process of the District of Columbia Court of Appeals, and the District of Columbia Court of General Sessions, including the Domestic Relations Branch thereof.

**§ 13-303. Service or execution on Sunday**

Except in cases of treason, felony, or breach of the peace, a writ, process, warrant, order, judgment, or decree may not be served or executed, or caused to be served or executed, on Sunday. Any such service or execution is void to all intents and purposes. A person who makes such a service or execution is liable to the aggrieved party to the same extent as if he had done it without a writ, process, warrant, order, judgment, or decree.

**Subchapter II—Service of Process; Legal Representatives****§ 13-331. Service under other laws and rules of court**

This chapter does not limit or affect the right to serve process in any other manner now or hereafter required or permitted by:

- (1) other law, including any other provisions of this Code;
- or
- (2) rule of court.

**§ 13-332. Service on infants; appointment and compensation of guardian and attorney**

(a) When an infant is a party defendant in an action, the summons and complaint shall be served upon him personally and, when he is under 16 years of age, upon the person with whom he resides, if within the District. The infant shall be produced in court unless, for cause shown, the court dispenses with his appearance. The provisions of rules of court regarding guardians ad litem apply, and whenever in the judgment of the court the interests of an infant defendant require it, the court shall assign an attorney to represent the infant whose compensation shall be paid by the plaintiff, or out of the estate of the infant, at the discretion of the court.

(b) An infant who secretes himself or evades service of process may be proceeded against as if he were a nonresident.

(c) Whoever secretes an infant against whom process has issued, so as to prevent service of the process, or prevents his appearance in court, is liable to attachment and punishment as for contempt.

**§ 13-333. Service on incompetent persons.**

When a person non compos mentis is a party defendant in an action, process shall be served upon him personally, if within the District, and upon his committee, if there is one within the District.

**§ 13-334. Service on foreign corporations**

(a) In an action against a foreign corporation doing business in the District, process may be served on the agent of the corporation or person conducting its business, or, when he is absent and can not be found, by leaving a copy at the principal place of business in the District, or, where there is no such place of business, by leaving a copy at the place of business or residence of the agent in the District, and that service is effectual to bring the corporation before the court.



(b) When a foreign corporation transacts business in the District without having a place of business or resident agent therein, service upon any officer or agent or employee of the corporation in the District is effectual as to actions growing out of contracts entered into or to be performed, in whole or in part, in the District of Columbia or growing out of any tort committed in the District.

**§ 13-335. Service by publication on domestic or foreign corporations**

In an action specified by section 13-336, when process can not be served upon a domestic or foreign corporation, the corporation may be proceeded against as a nonresident defendant, by notice by publication.

**§ 13-336. Service by publication on nonresidents, absent defendants, and unknown heirs or devisees**

(a) In actions specified by subsection (b) of this section, publication may be substituted for personal service of process upon a defendant who can not be found and who is shown by affidavit to be a nonresident, or to have been absent from the District for at least six months, or against the unknown heirs or devisees of deceased persons.

(b) This section applies only to:

- (1) actions for partition;
- (2) actions for divorce or annulment;
- (3) actions by attachment;
- (4) actions for foreclosure of mortgages and deeds of trust;
- (5) actions for the establishment of title to real estate by possession;
- (6) actions for the enforcement of mechanics' liens, and other liens against real or personal property within the District; and
- (7) actions that have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

**§ 13-337. Personal service outside District in lieu of publication**

(a) In actions specified by section 13-336, personal service of process may be made on a nonresident defendant out of the District, and the service has the same effect, and no other, as an order of publication duly executed.

(b) The service may be made by any person not a party to or otherwise interested in the subject-matter in controversy. The return shall be made under oath in the District of Columbia, unless the person making the service is a sheriff, deputy sheriff, marshal, or deputy marshal, authorized to serve process where service is made. The return must show the time and place of service and that the defendant so served is a nonresident of the District of Columbia.

(c) The cost and expense of such service of process out of the District shall be borne by the party at whose instance it is made and may not be taxed as part of the costs in the case; but where the service of process is made by an authorized officer of the law specified by this section, the actual and usual cost of the service of process shall be taxed as a part of the costs in the case.

**§ 13-338. Prerequisites for order of publication**

An order for the substitution of publication for personal service may not be made until:

- (1) a summons for the defendant has been issued and returned "Not to be found," and

(2) the nonresidence of the defendant or his absence for at least six months is proved by affidavit to the satisfaction of the court.

### § 13-339. Form of order of publication

An order of publication shall be in the following or an equivalent form:

United States District Court for the District of Columbia.	
AB, plaintiff,	} In _____. No. _____
versus	
CD, defendant.	

The object of this action is to (state it briefly).

On motion of the plaintiff, it is this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, ordered that the defendant cause his appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in cause of default.

\_\_\_\_\_  
Judge.

### § 13-340. Manner of publication; mailing of copy; default; appointment and compensation of guardian and attorney

(a) An order of publication shall be published at least once a week for three successive weeks, or oftener, or for such further time as the court orders.

(b) An order, judgment or decree may not be entered against an absent or nonresident defendant upon proof of notice by publication, unless the plaintiff, his agent, or attorney files in the action an affidavit showing that at least twenty days before applying for the order, judgment or decree he mailed, postpaid, a copy of the advertisement, directed to the party therein ordered to appear, at his last known place of residence, or that after diligent effort he has been unable to ascertain the last place of residence of the party.

(c) On failure of the defendant to appear in obedience to the notice within the time stated therein, a judgment or decree by default may be entered.

(d) If the absent or nonresident defendant is an infant, the provisions of the rules of court concerning guardians ad litem and default judgments shall apply, and the court may assign counsel to represent the infant in the manner provided by subsection (a) of section 13-332.

(e) If the absent or nonresident defendant is non compos mentis, the provisions of the rules of court concerning guardians ad litem and default judgments shall apply, and the court shall assign an attorney to represent the defendant, whose compensation shall be paid by the plaintiff, or out of the estate of the defendant, at the discretion of the court.

### § 13-341. Service by publication on persons unknown to be living or dead and on unknown heirs and devisees

(a) When a person would be a proper party to a judicial proceeding if living, and upon allegation under oath and proof satisfactory to the court that it is unknown whether he is living or dead, he may be proceeded against as if he were living, and with like effect, if a representative of or claimant under him does not intervene in the action before final determination thereof, after notice by publication as in the case of nonresident parties.

(b) When a person who would have been a proper party to a judicial proceeding is dead, and it is unknown whether he died testate or left heirs, or his heirs and devisees are unknown, the unknown persons

may be described as the heirs or devisees of the person who, if living, would be the proper party. Notice shall be given by publication to them according to that description, and the same proceedings shall be had against them as are had against nonresident defendants, except that:

(1) the notice shall be published at least twice a month for such period, not less than three months without good cause shown, as the court orders, and the notice shall require the parties to appear on or before the day fixed in the notice to appear; and

(2) an order, judgment or decree may not be entered against the parties unless the court is satisfied that due diligence has been used to ascertain the unknown heirs.

## CHAPTER 5—COUNTERCLAIMS

### Sec.

13-501. Counterclaim by way of set-off as an action by defendant.

13-502. Effect of assignment.

13-503. Action against principal and sureties.

13-504. Action by trustee.

13-505. Action by or against executor or administrator.

### § 13-501. Counterclaim by way of set-off as an action by defendant

In a civil action, a defendant who files a counterclaim by way of set-off shall be deemed to have brought an action at the time of filing the counterclaim for the matters mentioned therein.

### § 13-502. Effect of assignment

When cross-demands have existed between persons under such circumstances that if one had brought an action against the other a counterclaim could have been pleaded, neither can be deprived of the benefit thereof by an assignment by the other; but in an action by the assignee of a nonnegotiable debt the defendant may set off by counterclaim any indebtedness to him of the assignor, existing before notice of the assignment, as well as any indebtedness to him of the plaintiff.

### § 13-503. Action against principal and sureties

In an action against principal and sureties, an indebtedness of the plaintiff to the principal may be set off by counterclaim as if he were the sole defendant. When the indebtedness so set off exceeds the plaintiff's demand, the judgment for the excess shall be in favor of the defendant who is sued as principal.

### § 13-504. Action by trustee

When the plaintiff in a civil action is trustee for another, or has no actual interest in the contract on which the action is founded, a demand against the plaintiff may not be pleaded by way of counterclaim, but a demand against the person whom he represents or for whose benefit the action is brought may be pleaded.

### § 13-505. Action by or against executor or administrator

In an action against an executor or administrator, in his representative capacity, the defendant may plead, by way of counterclaim, a demand belonging to the decedent where he would have been entitled to rely upon the demand in an action against him; and in an action brought by an executor or administrator, in his representative capacity, a demand against the decedent, belonging at the time of his death to the defendant, may be pleaded by way of counterclaim, as if the action had been brought by the decedent in his lifetime.

## CHAPTER 7—TRIAL

Sec.

13-701. Special juries in District Court.

13-702. Jury trials in civil cases in Court of General Sessions.

### § 13-701. Special juries in District Court

(a) In a case, civil or criminal, called for trial in the United States District Court for the District of Columbia, in which either party desires a special or struck jury, the clerk shall prepare a list of twenty jurors from the jurors in attendance and furnish the list to each of the parties. Each party or his counsel may strike off the names of four persons from the list, and the persons whose names remain on the list shall thereupon be impaneled and sworn as the petit jury in the case. If either party or his counsel neglects or refuses to strike from the list the number of names authorized by this subsection, the clerk may strike off the names, and the twelve persons whose names remain on the list shall be impaneled as the petit jury in the case.

(b) If the proceeding authorized by subsection (a) of this section is not insisted upon by either party, either party may furnish to the clerk a list of the jurors, not exceeding four in number, whom he wishes to be omitted from the panel sworn in the case, and the clerk, in making up the panel, shall omit the jurors to whom objection was so made.

(c) This section does not deprive a person of the right to challenge the array or polls of a panel returned, or to have all or any of the jurors examined on their voir dire before the list is prepared to determine their competency to sit in a particular case.

### § 13-702. Jury trials in civil cases in Court of General Sessions

When the amount in controversy in a civil action pending in the District of Columbia Court of General Sessions exceeds \$20, and in all actions for the recovery of possession of real property, either party shall be entitled to a trial by jury, if he demands it in the manner provided by rules of the court. In such a case tried by jury, the trial judge shall conduct the jury trial and according to the practice and procedure in the United States District Court for the District of Columbia, and has the same power to instruct juries, set aside verdicts, arrest judgments, and grant new trials as judges of that court.

## TITLE 14—PROOF

CHAPTER

Sec.

1. EVIDENCE GENERALLY; DEPOSITIONS.....	14-101
3. COMPETENCY OF WITNESSES.....	14-301
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### CHAPTER 1—EVIDENCE GENERALLY; DEPOSITIONS

Sec.

14-101. Evidence under oath; affirmation in lieu of oath; perjury.
14-102. Impeachment of own witness; surprise.
14-103. Depositions for use in State and Territorial Courts.
14-104. Testimony of nonresident witnesses for use in Court of General Sessions.

### § 14-101. Evidence under oath; affirmation in lieu of oath; perjury

(a) All evidence shall be given under oath according to the forms of the common law.

(b) A witness who has conscientious scruples against taking an oath, may, in lieu thereof, solemnly, sincerely, and truly declare and affirm. Where an application, statement, or declaration is required to be supported or verified by an oath, the affirmation is the equivalent of an oath.



(c) Whoever swears, affirms, declares, or gives testimony in any form, where an oath is authorized by law, is lawfully sworn, and is guilty of perjury in a case where he would be guilty of that crime if sworn according to the forms of the common law.

**§ 14-102. Impeachment of own witness; surprise**

When the court is satisfied that the party producing a witness has been taken by surprise by the testimony of the witness, it may allow the party to prove, for the purpose only of affecting the credibility of the witness, that the witness has made to the party or to his attorney statements substantially variant from his sworn testimony about material facts in the cause. Before such proof is given, the circumstances of the supposed statement sufficient to designate the particular occasion must be mentioned to the witness, and he must be asked whether or not he made the statements and if so allowed to explain them.

**§ 14-103. Depositions for use in State and Territorial Courts**

When a commission is issued or notice given to take the testimony of a witness found within the District of Columbia, to be used in an action pending in a court of a State, territory, commonwealth, possession, or place under the jurisdiction of the United States, the testimony may be taken by leave of a judge of the United States District Court in like manner and with like effect as other depositions are taken in United States district courts.

**§ 14-104. Testimony of nonresident witnesses for use in Court of General Sessions**

If the testimony of nonresident witnesses is required by either party to a civil action or proceeding in the District of Columbia Court of General Sessions the Court, upon motion designating the names of the witnesses, may appoint an examiner to take their testimony, to whom it shall issue a commission. The testimony shall be taken on written interrogatories and cross-interrogatories. The written interrogatories must be filed at least three days before the issuance of the commission. The commission shall not issue unless the party or his agent or attorney applying therefor file his affidavit, setting forth that he believes that the testimony of the witnesses is material to the issue in the action or proceeding and that the motion is not made for the purpose of delay.

**CHAPTER 3—COMPETENCY OF WITNESSES**

Sec.

14-301. Parties and other interested persons generally.

14-302. Testimony against deceased or incapable person.

14-303. Testimony of deceased or incapable person.

14-304. Death or incapacity of partner or other interested person.

14-305. Conviction of crime.

14-306. Husband and wife.

14-307. Physicians.

14-308. Assessment officials as expert witnesses in condemnation proceedings.

14-309. Clergy.

**§ 14-301. Parties and other interested persons generally**

Except as otherwise provided by law, a person is not incompetent to testify in a civil action or proceeding by reason of his being a party thereto or interested in the result thereof. If otherwise competent to testify, he is competent to give evidence on his own behalf and competent and compellable to give evidence on behalf of any other party to the action or proceeding.

**§ 14-302. Testimony against deceased or incapable person**

(a) In a civil action against:

(1) a person who, from any cause, is legally incapable of testifying, or

(2) the committee, trustee, executor, administrator, heir, legatee, devisee, assignee, or other representative of a deceased person or of a person so incapable of testifying,

a judgment or decree may not be rendered in favor of the plaintiff founded on the uncorroborated testimony of the plaintiff or of the agent, servant, or employee of the plaintiff as to any transaction with, or action, declaration or admission of, the deceased or incapable person.

(b) In an action specified by subsection (a) of this section, if the plaintiff or his agent, servant, or employee, testifies as to any transaction with, or action, declaration, or admission of, the deceased or incapable person, an entry, memorandum, or declaration, oral or written, by the deceased or incapable person, made while he was capable and upon his personal knowledge, may not be excluded as hearsay.

**§ 14-303. Testimony of deceased or incapable person**

When a party, after having testified at a time while he was competent to do so, dies or becomes incapable of testifying, his testimony may be given in evidence in any trial or hearing in relation to the same subject-matter between the same parties or their legal representatives, as the case may be; and in such a case the opposite party may testify in opposition thereto.

**§ 14-304. Death or incapacity of partner or other interested person**

Where any of the original parties to a contract or transaction which is the subject of investigation are partners or other joint contractors, or jointly entitled or liable, and some of them have died or become incapable of testifying, any others with whom the contract or transaction was personally made or had, or in whose presence or with whose privity it was made or had, or admissions in relation to the same were made, are not, nor is the adverse party, incompetent to testify because some of the parties or joint contractors, or those jointly entitled or liable, have died or become incapable of testifying.

**§ 14-305. Conviction of crime**

A person is not incompetent to testify, in either civil or criminal proceedings, by reason of his having been convicted of crime. The fact of conviction may be given in evidence to affect his credibility as a witness, either upon the cross-examination of the witness or by evidence aliunde; and the party cross-examining him is not bound by his answers as to such matters. To prove the conviction of crime the certificate, under seal, of the clerk of the court wherein proceedings containing the conviction were had, stating the fact of the conviction and for what cause, is sufficient.

**§ 14-306. Husband and wife**

(a) In civil and criminal proceedings, a husband or his wife is competent but not compellable to testify for or against the other.

(b) In civil and criminal proceedings, a husband or his wife is not competent to testify as to any confidential communications made by one to the other during the marriage.

**§ 14-307. Physicians**

(a) In the courts of the District of Columbia a physician or surgeon may not be permitted, without the consent of the person afflicted, or of his legal representative, to disclose any information, confidential

in its nature, that he has acquired in attending a patient in a professional capacity and that was necessary to enable him to act in that capacity, whether the information was obtained from the patient or from his family or from the person or persons in charge of him.

(b) This section does not apply to:

(1) evidence in criminal cases where the accused is charged with causing the death of, or inflicting injuries upon, a human being, and the disclosure is required in the interests of public justice; or

(2) evidence relating to the mental competency or sanity of an accused in criminal trials where the accused raises the defense of insanity, or in the pretrial or posttrial proceedings involving a criminal case where a question arises concerning the mental condition of an accused or convicted person.

#### **§ 14-308. Assessment officials as expert witnesses in condemnation proceedings**

In an action for the condemnation of lands, an official or other employee of the District, charged with the duty of appraising real property for assessment purposes, is not disqualified, by reason of the fact that he is so employed, from testifying as an expert witness to the market value of lands, and as to benefits.

#### **§ 14-309. Clergy**

A priest, clergyman, rabbi, or other duly licensed, ordained, or consecrated minister of a religion authorized to perform a marriage ceremony in the District of Columbia or duly accredited practitioner of Christian Science may not be examined in any civil or criminal proceedings in the courts of the District of Columbia with respect to any—

(1) confession, or communication, made to him, in his professional capacity in the course of discipline enjoined by the church or other religious body to which he belongs, without the consent of the person making the confession or communication; or

(2) communication made to him, in his professional capacity in the course of giving religious or spiritual advice, without the consent of the person seeking the advice; or

(3) communication made to him, in his professional capacity, by either spouse, in connection with an effort to reconcile estranged spouses, without the consent of the spouse making the communication.

### **CHAPTER 5—DOCUMENTARY EVIDENCE**

Sec.

14-501. Proof of record.

14-502. Records of deeds, instruments, and wills.

14-503. Record of will as prima facie evidence of contents and execution.

14-504. Force in District of Columbia of wills probated elsewhere.

14-505. Municipal ordinances and regulations.

14-506. Certified mail return receipts as prima facie evidence of delivery.

14-507. Other methods of proof.

#### **§ 14-501. Proof of record**

An exemplification of a record under the hand of the keeper of the record, and the seal of the court or office where the record is made, is good and sufficient evidence to prove a record made or entered in any State, territory, commonwealth or possession of the United States. The certificate of the person purporting to be the keeper of the record, accompanied by the seal, is prima facie evidence of that fact.

**§ 14-502. Records of deeds, instruments, and wills**

Under the hand of the keeper of a record and the seal of the court or office in which the record was made:

(1) a copy of the record of a deed, or other written instrument not of a testamentary character, where the laws of the State, territory, commonwealth, possession or country where it was recorded require such a record, and that has been recorded agreeably to those laws; and

(2) a copy of a will that the laws require to be admitted to probate and record by judicial decree, and of the decree of the court admitting the will to probate and record—are good and sufficient prima facie evidence to prove the existence and contents of the deed, will, or other written instrument, and that it was executed as it purports to have been executed.

**§ 14-503. Record of will as prima facie evidence of contents and execution**

A record of a will or codicil recorded in the office of the Register of Wills of the District of Columbia, that has been admitted to probate by the United States District Court for the District of Columbia, or by the former orphans' court of the District, or a record of the transcript of the record and probate of a will or codicil elsewhere, or of a certified copy thereof filed in the office of the Register of Wills, is prima facie evidence of the contents and due execution of the will or codicil.

**§ 14-504. Force in District of Columbia of wills probated elsewhere**

A record in the office of the Register of Wills for the District of Columbia of a duly certified copy, or transcript of the record of proceedings, admitting a will or codicil to probate outside of the District of Columbia; and a record in that office of a will or codicil admitted to probate in the District before June 8, 1898, and not annulled or declared void according to law prior to June 8, 1898, shall be deemed and held as of the same force and effect as if the will or codicil had been duly proved and admitted to probate and record pursuant to sections 19-301 to 19-303.

31 Stat. 1212;  
63 Stat. 267.

**§ 14-505. Municipal ordinances and regulations**

Municipal ordinances and regulations in force in the District of Columbia may be proved by producing in evidence a copy thereof certified by the secretary or an assistant secretary of the Board of Commissioners; and the certified copy is prima facie evidence of the due adoption and promulgation of the ordinances and regulations.

**§ 14-506. Certified mail return receipts as prima facie evidence of delivery**

Return receipts for the delivery of certified mail which is utilized under any provision of law shall be received in the courts as prima facie evidence of delivery to the same extent as return receipts for registered mail.

**§ 14-507. Other methods of proof**

This chapter does not prevent the proof of records or other documents by any method authorized by other laws or rules of court.

**CHAPTER 7—ABSENCE FOR SEVEN YEARS**

Sec.

14-701. Presumption of death.

14-702. Person presumed dead found living.



**§ 14-701. Presumption of death**

If a person leaves his domicile without a known intention of changing it, and does not return or is not heard from for seven years from the time of his so leaving, he shall be presumed to be dead in any case where his death is in question, unless proof is made that he was alive within that time.

**§ 14-702. Person presumed dead found living**

If the person presumed to be dead pursuant to section 14-701 is found to be living, a person injured by the presumption shall be restored to the rights of which he was deprived by reason of the presumption.

## TITLE 15—JUDGMENTS AND EXECUTIONS; FEES AND COSTS

CHAPTER	Sec.
1. JUDGMENTS AND DECREES.....	15-101
3. ENFORCEMENT OF JUDGMENTS AND DECREES.....	15-301
5. EXEMPTIONS AND TRIAL OF RIGHT TO SEIZED PROPERTY.....	15-501
7. FEES AND COSTS.....	15-701

### CHAPTER 1—JUDGMENTS AND DECREES

#### SUBCHAPTER I—GENERALLY

Sec.
15-101. Enforceable period of judgments; expiration.
15-102. Lien of judgment, decree, or forfeited recognizance.
15-103. Effect of revival.
15-104. Priority of liens.
15-105. Decree confirming sale of property; effect; ordering conveyance.
15-106. Judgment and damages assessed in actions on bonds or penal sums.
15-107. Setting off judgments.

#### SUBCHAPTER II—COURT OF GENERAL SESSIONS

15-131. Judgments and executions generally; interest.
15-132. Enforceable period of judgments; effect of docketing in District Court; Domestic Relations Branch.
15-133. Satisfaction of judgment; recordation.

#### Subchapter I—Generally

**§ 15-101. Enforceable period of judgments; expiration**

(a) Except as provided by subsection (b) of this section, every final judgment or final decree for the payment of money rendered in the:

(1) United States District Court for the District of Columbia; or

(2) civil division of the District of Columbia Court of General Sessions, when certified to and docketed in the clerk's office of the District Court—

is enforceable, by an execution issued thereon, for the period of twelve years only from the date when an execution might first be issued thereon, or from the date of the last order of revival thereof. The time during which the judgment creditor is stayed from enforcing the judgment, by written agreement filed in the case, or other order, or by the operation of an appeal, may not be computed as a part of the period within which the judgment is enforceable by execution.

(b) At the expiration of the twelve-year period provided by subsection (a) of this section, the judgment or decree shall cease to have any operation or effect. Thereafter, except in the case of a proceeding that may be then pending for the enforcement of the judgment or decree, action may not be brought on it, nor may it be revived, and execution may not issue on it.

**§ 15-102. Lien of judgment, decree, or forfeited recognizance****(a) Every:**

(1) final judgment or unconditional final decree for the payment of money, from the date when it is rendered;

(2) judgment or decree rendered in the civil division of the District of Columbia Court of General Sessions, when docketed in the clerk's office of the United States District Court for the District of Columbia; and

(3) recognizance taken by the United States District Court for the District of Columbia, or judge thereof, from the time when it is declared forfeited—

is a lien on all the freehold and leasehold estates, legal and equitable, of the defendants bound by the judgment, decree, or recognizance, in any land, tenements, or hereditaments in the District of Columbia, whether the estates are in possession or are reversions or remainders, vested or contingent.

(b) A recognizance taken in the criminal division of the Court of General Sessions, after being forfeited, may be transmitted to the clerk's office of the District Court and docketed therein in the same manner as judgments rendered in the civil division of that court, with the same effect as if taken in the District Court.

(c) Liens created as provided by this section continue as long as the judgment, decree, or recognizance is in force or until it is satisfied or discharged.

**§ 15-103. Effect of revival**

An order of revival issued upon a judgment or decree during the period of twelve years from the rendition or from the date of an order reviving the judgment or decree, extends the effect and operation of the judgment or decree with the lien thereby created and all the remedies for its enforcement for the period of twelve years from the date of the order.

**§ 15-104. Priority of liens**

The lien of a mortgage or deed of trust upon real property, given by the purchaser to secure the payment of the whole or any part of the purchase-money, is superior to that of a previous judgment or decree against the purchaser.

**§ 15-105. Decree confirming sale of property; effect; ordering conveyance**

A decree confirming the sale of real or personal property sold pursuant to a decree, divests the right, title, or interest sold out of the former owner, party to the action, and vests it in the purchaser, without any conveyance by the officer or agent of the court conducting the sale. The decree constitutes notice to all persons of the transfer of title when a copy thereof is registered among the land-records of the District. In particular cases, the court may order its officer or agent to make a conveyance, if that mode is deemed preferable.

**§ 15-106. Judgment and damages assessed in actions on bonds or penal sums**

(a) In a civil action on a bond or on a penal sum for the non-performance of covenants or agreements contained in an indenture, deed, or writing, the plaintiff may assign as many breaches as he chooses. Damages shall be assessed for such breaches as he proves and judgment rendered for the whole penalty, but execution shall issue for as much only as is found in damages, with costs.

(b) In an action brought under subsection (a) of this section, upon judgment for the plaintiff on motion, default, or confession, the plaintiff may assign as many breaches as he chooses, the truth

of which shall be determined. The damages shall be assessed and execution shall issue for such damages only, with costs.

(c) Payment into court, after entry of judgment and prior to the issuance of execution, of the amount of the damages and costs assessed, for the use of the plaintiff or his representatives, stays execution, and the stay shall be entered on the record. Payment to the plaintiff or his representatives, after execution, of the amount of the damages and costs assessed, together with all fees and other reasonable costs of execution, forthwith discharges the defendant's real and personal property from execution, and the discharge shall be entered on the record. However, the judgment shall remain as a security to the plaintiff or his representatives for any other breaches which he or they afterwards prove. From time to time, the plaintiff may, by motion and hearing, with reasonable notice to the defendant, assign other breaches, and damages shall be assessed for such breaches as he proves, with costs. Payment into court, before execution, or to the plaintiff or his representative, after execution, as herein described, has the same effect as hereinbefore directed.

(d) In proceedings under this section, the right of trial by jury, as to issues of fact and the amount of damages to be assessed, is preserved.

(e) This section is subject to section 28-2405 of this Code and to section 1874 of Title 28, United States Code.

31 Stat. 1265.  
62 Stat. 953.

#### **§ 15-107. Setting off judgments**

Where reciprocal claims between different parties have passed into judgments the court, on motion, may order that the judgments be set off against each other and satisfaction of both be entered to the amount of the smaller claim.

### **Subchapter II—Court of General Sessions**

#### **§ 15-131. Judgments and executions generally; interest**

In civil cases within its jurisdiction, the District of Columbia Court of General Sessions may try, hear, and determine the matter in controversy between the parties upon their allegations and proofs, and give judgment according to law; and judgments for money rendered by it bear interest from their date until paid or satisfied, unless by the terms of the judgment interest runs from an earlier date. The court may issue writs of execution in cases in which it may render judgment.

#### **§ 15-132. Enforceable period of judgments; effect of docketing in District Court; Domestic Relations Branch**

(a) A judgment entered by the District of Columbia Court of General Sessions shall remain in force for only six years, unless it is docketed in the office of the clerk of the United States District Court for the District of Columbia. Upon being so docketed, the judgment has the same force and effect for all purposes as if it were a judgment of the District Court, and, until it is so docketed, it does not become a lien upon any real property in the District. The clerk of the District Court shall charge a fee of 50 cents for docketing the judgment.

(b) A judgment of the Domestic Relations Branch of the Court of General Sessions has the same legal status as a lien upon real property as a judgment of the District Court.

(c) Upon the payment of a fee of 50 cents, the clerk of the Court of General Sessions shall prepare a copy of any judgment of the civil division of the Court, that is in force.

**§ 15-133. Satisfaction of judgment; recordation**

A judgment of the civil division of the District of Columbia Court of General Sessions, or execution thereon, may not be recorded as satisfied without the receipt of the plaintiff or his attorney annexed thereto.

**CHAPTER 3—ENFORCEMENT OF JUDGMENTS AND DECREES**

Sec.

15-301. Definition and applicability.

15-302. Period during which writ of execution may issue; returnable period.

15-303. Alias writs.

15-304. Return of writ.

15-305. Issuance of writ after expiration of period.

15-306. Election to move for new judgment in lieu of execution.

15-307. Lien of execution.

15-308. Endorsement, by marshal, of date of receipt of writ.

15-309. Death of judgment debtor after delivery of execution.

15-310. Lien of execution on Court of General Sessions judgment; levy.

15-311. Property subject to levy.

15-312. Levy on money and evidences of debt.

15-313. Levy on equitable interest in chattels pledged.

15-314. Appraisement; notice of sale.

15-315. Death, removal, or disqualification of marshal.

15-316. Subrogation of purchaser after defective sale; no refund.

15-317. Remedy of marshal for erroneous sale made in good faith.

15-318. Remedies of purchaser upon refusal to deliver possession.

15-319. Execution of final decree after death; other appropriate proceedings.

15-320. Enforcement of decrees.

15-321. Enforcement of interlocutory decrees.

15-322. Enforcement of decrees for delivery of chattels.

15-323. Limitation on seizure of real property.

**§ 15-301. Definition and applicability**

As used in sections 15-302, 15-303, 15-305 to 15-307, 15-309, 15-310, 15-317, and 15-318, "judgment" includes an unconditional decree for the payment of money, and sections 15-302 to 15-318 are applicable to such a decree.

**§ 15-302. Period during which writ of execution may issue; returnable period**

(a) A writ of execution on a judgment in a civil action may be issued within three years after:

(1) the expiration of any stay of execution agreed to by the parties; or

(2) it first might have been issued under applicable provisions of law or rules of court.

(b) A writ of execution shall be returnable on or before the sixtieth day after its date.

**§ 15-303. Alias writs**

If a writ of execution is issued and returned unsatisfied, in whole or in part, within the period of three years provided by section 15-302, an alias writ may be issued during the life of the judgment.

**§ 15-304. Return of writ**

If the return of a writ of execution is not made on or before the return day expressed in the writ it may nevertheless be made afterwards as of that date.

**§ 15-305. Issuance of writ after expiration of period**

A writ of execution not issued within the time allowed therefor, may not be issued until the judgment has been revived. The same rule applies to the order of revival in relation to the issuance of a writ of execution as to the original judgment.



**§ 15-306. Election to move for new judgment in lieu of execution**

During the life of the original judgment the plaintiff, instead of issuing execution thereon within the time allowed therefor, may elect to obtain a new judgment by motion and hearing as provided by rules of court.

**§ 15-307. Lien of execution**

A writ of fieri facias issued upon a judgment of the United States District Court for the District of Columbia is a lien from the time of its delivery to the marshal upon all the goods and chattels of the judgment defendant, except those that are exempted from levy and sale by express provision of law, and is also a lien upon the equitable interest of the judgment defendant in goods and chattels in his possession.

**§ 15-308. Endorsement, by marshal, of date of receipt of writ**

Upon the receipt of any writ of fieri facias or other writ of execution, the marshal or his deputy shall, without fee, endorse upon the back of the writ the day of the month and year when he received it.

**§ 15-309. Death of judgment debtor after delivery of execution**

The death of the judgment debtor after the execution issued on the judgment has been delivered to the marshal does not affect his authority to proceed against the property bound by it.

**§ 15-310. Lien of execution on Court of General Sessions judgment; levy**

An execution issued on a judgment of the District of Columbia Court of General Sessions is not a lien on the personal property of the judgment debtor except from the time when it is actually levied, and then it has priority over any execution issued out of the United States District Court for the District of Columbia after the levy. It may not be levied on real estate.

**§ 15-311. Property subject to levy**

The writ of fieri facias may be levied on all goods and chattels of the debtor not exempt from execution, and upon money, bills, checks, promissory notes, or bonds, or certificates of stock in corporations owned by the debtor, and upon his money in the hands of the marshal or his deputy or other officer or person charged with the execution of the writ. A writ of fieri facias issued from the United States District Court for the District of Columbia may be levied on all legal leasehold and freehold estates of the debtor in land.

**§ 15-312. Levy on money and evidences of debt**

When the fieri facias is levied on money belonging to the judgment debtor the marshal may not expose the money to sale, but shall account for it as money collected. Bills or other evidences of debt levied upon shall be sold as other personal property is sold, and the marshal may indorse them to pass title to the purchaser.

**§ 15-313. Levy on equitable interest in chattels pledged**

The interest of the debtor in personal chattels lawfully pledged for the payment of a debt or performance of a contract, or held by a trustee, and in which the debtor's interest is only equitable, may be levied upon in the hands of the pledgee or trustee without disturbing the possession of the latter, and the lien thus obtained may be enforced by civil action. In other cases of equitable interest of the judgment debtor in personal chattels execution may also be levied thereon and the lien thus obtained may be enforced by civil action.

**§ 15-314. Appraisement; notice of sale**

Where not herein otherwise provided, all property levied upon, except money, shall be appraised by two sworn appraisers and sold at public auction for cash.

Personal property may be sold after ten days' notice by advertisement, containing a description sufficiently definite to be embodied in a conveyance of title.

Leasehold and freehold estates in land may be sold after notice has been made in the manner provided by section 2002 of Title 28, United States Code.

62 Stat. 959.

**§ 15-315. Death, removal, or disqualification of marshal**

When the marshal dies, or is removed from office, or becomes otherwise disqualified from executing a writ of execution received by him, the writ may be executed and returned by his deputy or successor in office.

**§ 15-316. Subrogation of purchaser after defective sale; no refund**

When, upon the sale of property under execution, the title of the purchaser is invalid by reason of a defect in the proceedings, the purchaser may be subrogated to the rights of the creditor against the debtor to the extent of the money paid by him and applied to the debtor's benefit, and to that extent has a lien on the property sold against all persons except bona fide purchasers without notice; but the creditor may not be required to refund the purchase money on account of the invalidity of the sale.

**§ 15-317. Remedy of marshal for erroneous sale made in good faith**

When the marshal or any other officer to whom execution has been delivered levies upon and sells in good faith property not subject thereto and applies the proceeds thereof toward the satisfaction of the judgment, and a recovery is had against him for its value, the officer, on payment of the value, may, on motion and due notice thereof to the defendant, have the satisfaction of the judgment vacated, and execution shall issue thereon for his use as if the levy and sale had not been made.

**§ 15-318. Remedies of purchaser upon refusal to deliver possession**

When real property is sold by virtue of an execution, and the judgment debtor or a person claiming under him since the rendition of the judgment is in actual possession of the property and refuses to deliver possession thereof to the purchaser upon demand made therefor, the court, on the application of the purchaser, may:

(1) require the person so in possession to show cause why possession should not be delivered according to the demand; and

(2) if good cause is not shown, issue a writ of habere facias possessionem, requiring the marshal to put the purchaser in possession.

If the party in possession alleges under oath a title derived from the judgment debtor prior to the judgment or a title superior to that of the defendant, the writ may not issue, but the purchaser may have his remedy by an action of ejectment or the summary remedy in the District of Columbia Court of General Sessions provided for in sections 16-1501 to 16-1505.

**§ 15-319. Execution of final decree after death; other appropriate proceedings**

When a party to an action dies after final decree, the court may order execution of the decree as if death had not occurred, or the court, after motion and hearing, may order the decree revived against

the proper representatives of the deceased party, or make such other order or direct such other proceedings as seems best calculated to advance the purposes of justice. The heir or other proper representative may appear at any time before execution of the decree and be admitted as a party to the action, on such terms as the court prescribes, and such further proceeding may be had as may be appropriate to the merits of the cause.

#### **§ 15-320. Enforcement of decrees**

(a) For the purpose of executing a decree, or compelling obedience to it, the United States District Court for the District of Columbia or the District of Columbia Court of General Sessions, in addition to the other procedures provided for by this chapter and chapter 5 of Title 16, may:

- (1) issue an attachment against the person of the defendant;
- (2) order an immediate sequestration of his real and personal estate, or such part thereof as may be necessary to satisfy the decree; or
- (3) by order and injunction, cause the possession of the estate and effects whereof the possession or a sale is decreed to be delivered to the complainant, or otherwise, according to the tenor and import of the decree and as the nature of the case requires.

In case of sequestration, the court may order payment and satisfaction to be made out of the estate and effects so sequestered, according to the true intent and meaning of the decree.

(b) When a defendant is arrested and brought into court upon any process of contempt issued to compel the performance of a decree, the court may, upon motion, order:

- (1) the defendant to stand committed; or
- (2) his estates and effects to be sequestered and payment made, as directed by subsection (a) of this section; or
- (3) possession of his estate and effects to be delivered by order and injunction, as directed by subsection (a) of this section—

until the decree or order is fully performed and executed, according to the tenor and true meaning thereof, and the contempt cleared.

(c) Where a decree only directs the payment of money, the defendant may not be imprisoned except in those cases especially provided for.

#### **§ 15-321. Enforcement of interlocutory decrees**

An interlocutory order may be enforced by such process as might be had upon a final judgment or decree to the like effect, and the payment of costs adjudged to a party may be enforced in like manner.

#### **§ 15-322. Enforcement of decrees for delivery of chattels**

In addition to the procedures for enforcement of judgments or decrees otherwise provided for, an order or decree for the delivery of chattels may be enforced by the same writs as are used in the action of replevin at common law.

#### **§ 15-323. Limitation on seizure of real property**

Real property or rent shall not be seized for a debt, as long as the present goods and chattels of the debtor are sufficient to pay it, and the debtor himself is ready to satisfy the debt.

## CHAPTER 5—EXEMPTIONS AND TRIAL OF RIGHT TO SEIZED PROPERTY

### SUBCHAPTER I—EXEMPTIONS

Sec.

15-501. Exempt property of householder; property in transitu; debt for wages.

15-502. Mortgage or other instrument affecting exempt property.

15-503. Earnings and other income; wearing apparel and tools of certain persons.

### SUBCHAPTER II—TRIAL OF RIGHT TO PROPERTY SEIZED ON PROCESS OF COURT OF GENERAL SESSIONS

15-521. Notice of claim or exemption; trial.

15-522. Docketing of claim; manner of trial.

15-523. Judgment.

15-524. Replevin against officer.

### Subchapter I—Exemptions

#### § 15-501. Exempt property of householder, property in transitu; debt for wages

(a) The following property of the head of a family or householder residing in the District of Columbia, or of a person who earns the major portion of his livelihood in the District of Columbia, being the head of a family or householder, regardless of his place of residence, is free and exempt from distraint, attachment, levy, or seizure and sale on execution or decree of any court in the District of Columbia:

(1) all wearing apparel provided for all persons within the household, being members of the immediate family of the household, not exceeding \$300 per person in value;

(2) all beds, bedding, household furniture and furnishings, sewing machines, radios, stoves, cooking utensils, not exceeding \$300 in value;

(3) provisions for three months' support, whether provided or growing;

(4) fuel for three months;

(5) mechanics' tools and implements of the debtor's trade or business amounting to \$200 in value, with \$200 worth of stock or materials for carrying on the business or trade of the debtor;

(6) the library, office furniture, and implements of a professional man or artist, not exceeding \$300 in value;

(7) one horse or mule; one cart, wagon, or dray and harness, or one automobile or motor-controlled vehicle not exceeding \$500 in value if used principally by the debtor in his trade or business; and

(8) all family pictures; and all the family library, not exceeding \$400 in value.

The exemption provided for by clause (5) of this subsection also applies to merchants.

(b) The exemptions provided for by subsection (a) of this section are valid when the property is in transitu the same as if at rest; but property named and exempted in this section is not exempt from attachment or execution for a debt due for the wages of servants, common laborers, or clerks, except the wearing apparel, beds, and bedding and household furniture for the debtor and family.

(c) For the purpose of this section, the person who is the principal provider for the family is the head thereof.



**§ 15-502. Mortgage or other instrument affecting exempt property**

A mortgage, deed of trust, assignment for the benefit of creditors, or bill of sale upon exempted articles is not binding or valid unless it is signed by the wife of a debtor who is married and living with his wife.

**§ 15-503. Earnings and other income; wearing apparel and tools of certain persons**

(a) The earnings (other than wages, as defined in subchapter III of chapter 5 of Title 16), insurance, annuities, or pension or retirement payments, not otherwise exempted, not to exceed \$200 each month, of a person residing in the District of Columbia, or of a person who earns the major portions of his livelihood in the District of Columbia, regardless of place of residence, who provides the principal support of a family, for two months next preceding the issuing of any writ or process against him, from any court or officer of and in the District, are exempt from attachment, levy, seizure, or sale upon the process, and may not be seized, levied on, taken, reached, or sold by process or proceedings of any court, judge, or other officer of and in the District. Where husband and wife are living together, the aggregate of the earnings, insurance, annuities, and pension or retirement payments of the husband and wife is the amount which shall be determinative of the exemption of either in cases arising *ex contractu*.

(b) The earnings (other than wages, as defined in subchapter III of chapter 5 of Title 16), insurance, annuities, or pension or retirement payments, not otherwise exempt, not to exceed \$60 each month for two months preceding the date of attachment of persons residing in the District of Columbia, or of persons who earn the major portions of their livelihood in the District of Columbia, regardless of place of residence, who do not provide for the support of a family, are entitled to like exemption from attachment, levy, seizure, or sale. All wearing apparel belonging to such persons, not exceeding \$300 in value, and mechanic's tools not exceeding \$200 in value, are also exempt.

(c) A notice of claim of exemption, or motion to quash attachment or other process against exempt property or money, may be filed in the office of the clerk of the court either by the debtor, his spouse, or a garnishee. Thereupon, the court, after due notice, shall promptly act upon the notice, motion, or other claim of exemption.

**Subchapter II—Trial of Right to Property Seized on Process of Court of General Sessions****§ 15-521. Notice of claim or exemption; trial**

When personal property taken on execution or other process issued by the District of Columbia Court of General Sessions is claimed by a person other than the defendant therein, or is claimed by the defendant to be property exempt from execution, and the claimant gives written notice to the marshal of his claim, or the defendant gives notice, in writing, that the property is exempt, the marshal shall notify the plaintiff of the claim and return the notice to the court, and a trial of the right of property, or the question of exemption, shall be had before the court.

**§ 15-522. Docketing of claim; manner of trial**

The case made by the claim referred to in section 15-521 shall be entered on the docket as an action by the claimant or the defendant against the plaintiff and tried in the same manner as other cases before the District of Columbia Court of General Sessions.

**§ 15-523. Judgment**

If the property referred to in section 15-521 appears to belong to the claimant or to be exempt from the process, judgment shall be entered against the plaintiff for costs, and the property levied upon shall be released. If the property does not appear to belong to the claimant or to be exempt, judgment shall be entered against the claimant or the defendant as the case may be, for costs, including additional costs occasioned by the delay in the execution of the writ.

**§ 15-524. Replevin against officer**

This subchapter does not prevent a claimant other than the defendant from bringing an action of replevin against the officer levying upon the property claimed as described in this subchapter.

**CHAPTER 7—FEES AND COSTS****Sec.**

- 15-701. Compensation taxed as costs; attorneys' compensation from clients.
- 15-702. Docket fees of attorneys and proctors.
- 15-703. Deposit for costs; security for costs by nonresidents.
- 15-704. Advance payment of costs and fees.
- 15-705. Exemption of District of Columbia and United States from fees, costs, and bonds.
- 15-706. Clerk's fees in United States District Court for the District of Columbia.
- 15-707. Probate Court fees.
- 15-708. Deposit for probate court fees.
- 15-709. Fees and costs in Court of General Sessions in civil and criminal cases.
- 15-710. Fees and costs in Domestic Relations Branch of Court of General Sessions.
- 15-711. Deposit or security for costs in Court of General Sessions.
- 15-712. Waiver of prepayment of costs in Court of General Sessions.
- 15-713. Deposits for jury trials in Court of General Sessions.
- 15-714. Witness fees for attendance in Court of General Sessions.
- 15-715. Witness fees in prosecutions for cruelty to children or animals.
- 15-716. Advances to Court of General Sessions clerk for witness fees.

**§ 15-701. Compensation taxed as costs; attorneys' compensation from clients**

(a) Except as otherwise provided by law, only the compensation specified in this chapter may be taxed and allowed to attorneys, proctors, United States attorney, clerk of the United States District Court for the District of Columbia, marshal, witnesses, and jurors.

(b) This chapter does not prohibit attorneys and proctors from charging or receiving from their clients other than the government such reasonable compensation for their services, in addition to the taxable costs, as may be in accordance with general usage or may be agreed upon.

**§ 15-702. Docket fees of attorneys and proctors**

(a) Attorney's and proctor's docket fees may be taxed in the amounts fixed by section 1923 of Title 28, United States Code.

62 Stat. 956.

(b) An attorney for the District of Columbia may not retain attorney fees taxed as costs in litigation in which the District of Columbia is a party.

**§ 15-703. Deposit for costs; security for costs by nonresidents**

(a) At the commencement of every suit in the United States District Court for the District of Columbia the plaintiff shall deposit at least ten dollars with the clerk, to be appropriated toward the costs of the suit. The court may prescribe rules as to any further costs to be paid by either the plaintiff or defendant during the progress of

the case, and as to the collection thereof. Upon the termination of the case any surplus of costs shall be refunded by the clerk.

(b) The defendant in a suit instituted by a non-resident of the District of Columbia, or by one who becomes a non-resident after the suit is commenced, upon notice served on the plaintiff or his attorney after service of process on the defendant, may require the plaintiff to give security for costs and charges that may be adjudged against him on the final disposition of the cause. This right of the defendant does not entitle him to delay in pleading, and his pleading before the giving of the security is not a waiver of his right to require security for costs. In case of noncompliance with these requirements, within a time fixed by the court, judgment of nonsuit or dismissal shall be entered. The security required may be by an undertaking, with security, to be approved by the court, or by a deposit of money in an amount fixed by the court.

A nonresident, at the commencement of his suit, may deposit with the clerk such sum as the court deems sufficient as security for all costs that may accrue in the cause, which deposit may afterwards be increased on application, in the discretion of the court.

#### **§ 15-704. Advance payment of costs and fees**

(a) Costs and fees for services rendered by the clerk of the United States District Court for the District of Columbia and the Register of Wills and chargeable to others than the United States or the District of Columbia are payable in advance and shall be collected pursuant to such rules and regulations, not incompatible with law, as are prescribed by the court.

(b) Section 15-706 does not prohibit the court from directing, by rule or standing order, the collection, at the time the services are rendered, of the fees enumerated in that section from either party, but all such fees shall be taxed as costs in the respective cases.

#### **§ 15-705. Exemption of District of Columbia and United States from fees, costs, and bonds**

(a) The District of Columbia or any officer thereof acting therefor may not be required to pay court costs or fees in any court in and for the District of Columbia.

(b) The District of Columbia may not be required to pay fees to the clerk of the United States Court of Appeals for the District of Columbia, or to the marshal of the District, and is entitled to the services of the marshal in the service of all civil process.

(c) The United States and the District of Columbia may not be required to pay fees and costs for services rendered by the clerk of the United States District Court for the District of Columbia and the Register of Wills.

(d) Neither the United States nor the District of Columbia, nor any officer of either acting in his official capacity, may be required to give bond or enter into undertaking to perfect an appeal or to obtain an injunction or other writ, process, or order in or of any court in the District of Columbia for which a bond or undertaking is required by law or rule of court.

#### **§ 15-706. Clerk's fees in United States District Court for the District of Columbia**

(a) For filing the following-named cases and for all services to be performed therein, except as otherwise provided by law, the clerk of the United States District Court for the District of Columbia shall charge and collect the following fees:

- (1) civil actions, \$10;
- (2) lunacy cases, \$10;

- (3) deportation cases, \$10;
- (4) requisition cases, \$10;
- (5) habeas corpus cases, \$10;
- (6) plea of title cases, \$10;
- (7) District court cases, \$15;
- (8) condemnation cases, \$15;
- (9) libel cases, \$15;
- (10) feeble-minded cases, \$7.50;
- (11) change of name cases, \$5;
- (12) intervening petitions in any case, \$5;
- (13) cases substituting trustees, \$4;
- (14) docketing judgments of the District of Columbia Court of General Sessions, as provided in section 15-132; and

(15) limited partnership cases, \$3.

(b) Upon the perfecting of an appeal to the United States Court of Appeals for the District of Columbia Circuit, the clerk shall charge and collect from the party or parties prosecuting the appeal an additional fee of \$5 in the action or proceeding.

(c) For each additional trial or final hearing, upon a reversal by the United States Court of Appeals for the District of Columbia Circuit, or following a disagreement by a jury or the granting of a new trial or rehearing by the court, the clerk shall charge and collect from the party or parties securing the reversal, new trial, or rehearing, the further sum of \$5.

(d) In a case where attachments, executions, or rules are issued, the clerk shall charge and collect the following fees in addition to the fees otherwise provided:

- (1) for each writ of attachment, \$1, and each copy, \$1;
- (2) for each writ of execution, \$1.50;
- (3) for each rule 50 cents, and each copy certified, 50 cents;
- (4) for each writ of ne exeat, \$1;
- (5) for each bench warrant, \$1;
- (6) for each warrant of arrest, \$1.

(e) In addition to the fees for services rendered in cases hereinbefore enumerated the clerk shall charge and collect, for miscellaneous services performed by him and his assistants, except when on behalf of the United States, the following fees:

(1) for issuing a writ or subpoena for a witness not in a case instituted or pending in the court from which it is issued, 50 cents for each writ and copy or subpoena and copy;

(2) for filing and indexing any paper not in a case or proceeding, 25 cents;

(3) for administering an oath or affirmation, not in a case or proceeding pending in the court where the oath is administered, 50 cents;

(4) for an acknowledgment, certificate, affidavit, or countersignature, with seal, 50 cents;

(5) for taking and certifying depositions to file, 20 cents for each folio of one hundred words, and if taken stenographically, 15 cents per folio additional for the stenographer;

(6) for copy of a record, entry, or other paper and the comparison thereof, 15 cents for each folio of one hundred words;

(7) for searching the records of the court for judgments, decrees, or other instruments, or marriage records, 50 cents for each year covered by the search and for certifying the result, 50 cents;



- (8) for making and comparing a transcript of record on appeal, 15 cents for each folio of one hundred words;
- (9) for comparing a transcript, copy of record, or other paper not made by the clerk with the original thereof, 5 cents for each folio of one hundred words;
- (10) for administering oath of admission of attorneys to practice, \$2 each; for certificate of admission to be furnished upon request, \$2 additional;
- (11) for each marriage license, \$2;
- (12) for each certified copy of marriage license and return, \$1;
- (13) for each certified copy of application for marriage license, \$1;
- (14) for registering clergymen's authorizations to perform marriages and issuing certificate, \$1;
- (15) for each certificate of official character, including the seal, 50 cents;
- (16) for filing and recording each notice of mechanic's lien, \$1;
- (17) for entering release of mechanic's lien, 50 cents for each order of lienor; 75 cents for each undertaking of lienee;
- (18) for recording physicians', optometrists', and midwives' licenses, 50 cents each;
- (19) for the clerks' attendance on the court while actually in session, \$5 per day;
- (20) for all services rendered to the United States in cases in which the United States is a party of record, \$5.

#### § 15-707. Probate Court fees

(a) The Register of Wills, clerk of the Probate Court, may demand and receive in advance, for services performed by him, the following fees:

- (1) for filing petition or caveat, 50 cents;
- (2) for filing other papers, each 5 cents;
- (3) for making docket and indexes and taxing costs in each case, \$2.50;
- (4) for additional docket entries, each, 25 cents;
- (5) for issuing subpoena to witness and copies, each, 25 cents;
- (6) for issuing subpoena duces tecum, 50 cents;
- (7) for issuing summons, citation, commission, rule, warrant, notice of trial, process, execution, attachment, or writ, each \$1;
- (8) for issuing notices to creditors, distributees, and legatees, each 50 cents;
- (9) for copies of summons, citation, rule, warrant, or other process, order of publication, notice to creditors, legatees, and distributees, attested under seal and delivered for service or publication, each 50 cents;
- (10) for taking and recording every bond, \$1.50;
- (11) for a probate of will, inventory, or account, \$1;
- (12) for issuing letters testamentary or of administration, collection, or guardianship, \$1;
- (13) for issuing certificate of appointment of executor, administrator, collector, or guardian, \$1;
- (14) for entering panel of jury and swearing them, 50 cents;
- (15) for administering an oath or affirmation, 15 cents;
- (16) for passing a claim against an estate and entering in docket of claims, 30 cents;

(17) for drawing depositions of witnesses, per folio, 15 cents;

(18) for every search of the files or records outside of a regular proceeding, where no other service is performed for which a fee is allowed, \$1;

(19) for examining or stating an account of executor, administrator, collector, guardian, receiver, or trustee, not exceeding one hundred items, \$5;

(20) for each additional item, 2 cents;

(21) for stating the distribution of an estate, for each distributee, \$1;

(22) for a copy of an account, not exceeding one hundred items, \$1.50;

(23) for each additional item, 2 cents;

(24) for recording all papers, per folio, 15 cents;

(25) for copies of all papers not otherwise specified, per folio, 12 cents;

(26) for every certificate under seal, not otherwise specified, 50 cents.

(b) Where the estate does not exceed two hundred dollars in value the Register of Wills shall receive no fees, and where the estate does not exceed five hundred dollars in value the fees may not exceed ten dollars.

(c) The court may allow to the Register reasonable fees for any service he may render not specified by section 15-706.

#### **§ 15-708. Deposit for probate court fees**

For proceedings in the probate court deposits and fees shall be paid to the Register of Wills.

Upon the presentation for filing of a petition or a caveat to a will, he may require a deposit for his fees to be charged for the proceedings under the petition or caveat. Upon the deposit becoming exhausted in the liquidation of his fees so charged, he may require a further deposit from the original petitioner or caveator. The deposits may not be required in excess of fifteen dollars at any one time.

#### **§ 15-709. Fees and costs in Court of General Sessions in civil and criminal cases**

(a) The District of Columbia Court of General Sessions may prescribe fees and costs, including the fee to be paid for a jury trial. Section 15-702(a), relating to docket fees of attorneys and proctors, does not apply to the Court of General Sessions.

(b) Fees for service by the United States marshal of process issued by the Court of General Sessions shall be:

(1) in civil actions, as prescribed by rule of the United States District Court for the District of Columbia; and

(2) in criminal actions, the same as fees prescribed for like service in the District Court.

#### **§ 15-710. Fees and costs in Domestic Relations Branch of Court of General Sessions**

The judges of the Domestic Relations Branch of the District of Columbia Court of General Sessions, with the approval of the chief judge of the court, shall prescribe, by rules, the fees, charges, and costs in actions and proceedings in the Domestic Relations Branch.

#### **§ 15-711. Deposit or security for costs in Court of General Sessions**

Nonresidents of the District of Columbia may commence suits in the District of Columbia Court of General Sessions without first giving security for costs, but upon motion may be required to give security pursuant to section 15-703.

**§ 15-712. Waiver of prepayment of costs in Court of General Sessions**

When satisfactory evidence is presented to the District of Columbia Court of General Sessions or one of the judges thereof that the plaintiff in a suit is indigent and unable to make deposit of costs, the court or judge may permit the prosecution of the suit without the prepayment or deposit of costs.

**§ 15-713. Deposits for jury trials in Court of General Sessions**

Deposits made on demands for jury trials in accordance with rules prescribed by the District of Columbia Court of General Sessions under authority granted in section 15-709 shall be earned unless, prior to three days before the time set for trial, including Sundays and legal holidays, a new date for trial is set by the court, cases are discontinued or settled, or demands for jury trials are waived.

**§ 15-714. Witness fees for attendance in Court of General Sessions**

(a) There shall be paid to witnesses in criminal cases in the District of Columbia Court of General Sessions, not exceeding seventy-five cents per diem for each day of attendance, to be allowed only in the discretion of the court.

(b) The fees and travel allowances to be paid any witness compelled by subpoena to attend any branch of the District of Columbia Court of General Sessions other than the criminal division shall be the same amount as paid a witness compelled to attend before the United States District Court for the District of Columbia.

**§ 15-715. Witness fees in prosecutions for cruelty to children or animals**

An officer or member of the Humane Society is not entitled to any fee as a witness in the prosecution of a case of cruelty to children or animals.

**§ 15-716. Advances to Court of General Sessions clerk for witness fees**

The Board of Commissioners or its authorized representative may advance to the clerk of the District of Columbia Court of General Sessions upon requisition previously approved by the Board of Commissioners or its authorized representative, sums of money not exceeding \$500 at any one time, to be used for the payment of witness fees.

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

CHAPTER	Sec.
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## CHAPTER 1—ACCOUNT

Sec.

16-101. Parties.

### § 16-101. Parties

An action of account shall and may be brought against the executor and administrator of every guardian, bailiff and receiver; and by one joint-tenant and tenant in common, his executors and administrators, against the other, as bailiff for receiving more than comes to his just share or proportion, and against the executor and administrator of such a joint-tenant or tenant in common.

## CHAPTER 3—ADOPTION

Sec.

16-301. Jurisdiction; rules.

16-302. Persons who may adopt.

16-303. Persons adopted.

16-304. Consent.

16-305. Petition for adoption.

16-306. Notice of adoption proceedings.

16-307. Investigation, report, and recommendation.

16-308. Investigations when prospective adoptee is adult or petitioner is spouse of natural parent.

16-309. Adoption proceedings.

16-310. Finality of decrees of adoption.

16-311. Sealing and inspection of records and papers.

16-312. Legal effects of adoption.

16-313. Child as including adopted person.

16-314. Birth certificates.

### § 16-301. Jurisdiction; rules

(a) Subject to subsection (b) of this section, the Domestic Relations Branch of the District of Columbia Court of General Sessions has jurisdiction to hear and determine petitions and decrees of adoption of any adult or child with authority to make such rules, not inconsistent with this chapter, as shall bring fully before the court for consideration the interests of the prospective adoptee, the natural parents, the petitioner, and any other properly interested party.

(b) Jurisdiction shall be conferred when any of the following circumstances exist:

(1) petitioner is a legal resident of the District of Columbia;

(2) petitioner has actually resided in the District for at least one year next preceding the filing of the petition; or

(3) the child to be adopted is in the legal care, custody, or control of the Commissioners or a child-placing agency licensed under the laws of the District.

### § 16-302. Persons who may adopt

Any person may petition the court for a decree of adoption. A petition may not be considered by the court unless petitioner's spouse, if he has one, joins in the petition, except that if either the husband or wife is a natural parent of the prospective adoptee, the natural parent need not join in the petition with the adopting parent, but need only give his or her consent to the adoption. If the marital status of the petitioner changes after the time of filing the petition and before the time the decree of adoption is final, the petition must be amended accordingly.

### § 16-303. Persons adopted

A person, whether a minor or an adult, may be adopted.



**§ 16-304. Consent**

(a) A petition for adoption may not be granted by the court unless there is filed with the petition a written statement of consent, as provided by this section, signed and acknowledged before an officer authorized by law to take acknowledgments, before a representative of a licensed child-placing agency, or before the Board of Commissioners of the District, or unless a relinquishment of parental rights with respect to the prospective adoptee has been recorded and filed as provided by section 32-786.

58 Stat. 194;  
68 Stat. 248.

(b) Consent to a proposed adoption of a person under twenty-one years of age is necessary:

(1) from the prospective adoptee, if he is fourteen years of age or over; and also,

(2) in accordance with the provisions of any one of the following paragraphs:

(A) from both parents, if they are or were married and are both alive; or

(B) from the living parent of the prospective adoptee, if one of the parents is dead; or

(C) from the mother in the case of a prospective adoptee born out of wedlock, unless the prospective adoptee has been legitimated according to the laws of any jurisdiction, in which case the consent of the father is also required if he is alive; or

(D) from the mother of a prospective adoptee born in wedlock, if the illegitimacy of the prospective adoptee has been established to the satisfaction of the court; or

(E) from the court-appointed guardian of the prospective adoptee; or

(F) from a licensed child-placing agency or the Board of Commissioners in case the parental rights of the parent or parents have been terminated by a court of competent jurisdiction or by a release of parental rights to the Board or licensed child-placing agency, based upon consents obtained in accordance with paragraphs (A) through (E) of this subdivision, and the prospective adoptee has been lawfully placed under the care and custody of the agency or the Board; or

(G) from the Board of Commissioners in any situation not otherwise provided for by this subdivision.

(c) Minority of a natural parent is not a bar to that parent's consent to adoption.

(d) When a parent whose consent is hereinbefore required, after such notice as the court directs, cannot be located, or has abandoned the prospective adoptee and voluntarily failed to contribute to his support for a period of at least six months next preceding the date of the filing of the petition, the consent of that parent is not required.

(e) The court may grant a petition for adoption without any of the consents specified in this section, when the court finds, after a hearing, that the consent or consents are withheld contrary to the best interests of the child.

(f) A person over twenty-one years of age may be adopted, on the petition of the adopting parent or parents and with the consent of the prospective adoptee, if the court is satisfied that the adoption should be granted.

**§ 16-305. Petition for adoption**

A petition filed for the adoption of a person shall be under oath or affirmation of the petitioner and the titling thereof shall be sub-

stantially as follows: "Ex parte in the matter of the petition of ----- for adoption." The petition or the exhibits annexed thereto shall contain the following information:

(1) the name, sex, date, and place of birth of the prospective adoptee, and the names, addresses and residences of the natural parents, if known to the petitioner, except that in an adoption proceeding that is consented to by the Board of Commissioners or a licensed child-placing agency, the names, addresses and residences of the natural parents may not be set forth;

(2) the name, address, age, business or employment of the petitioner, and the name of the employer, if any, of the petitioner;

(3) the relationship, if any, of the prospective adoptee to the petitioner;

(4) the race and religion of the prospective adoptee, or his natural parent or parents;

(5) the race and religion of the petitioner;

(6) the date that the prospective adoptee commenced residing with petitioner; and

(7) any change of name which may be desired.

When any of the above facts is unknown to the petitioner, the petitioner shall state this fact. When any of the above facts is known to the Board of Commissioners, or a licensed child-placing agency that as a matter of social policy declines to disclose them to the petitioner, the facts may be disclosed to the court in an exhibit filed by the Board or the agency with the court. If more than one petitioner joins in a petition, the requirements of this section apply to each.

#### § 16-306. Notice of adoption proceedings

(a) Except as provided by subsection (b) of this section, due notice of pending adoption proceedings shall be given to each person whose consent is necessary thereto, immediately upon the filing of a petition. The notice shall be given by summons, by registered letter sent to the addressee only, or otherwise as ordered by the court.

(b) A party who formally gives his consent to the proposed adoption, as provided by this chapter, thereby waives the requirement of notice to him pursuant to this section.

#### § 16-307. Investigation, report, and recommendation

(a) Except as provided by section 16-308, upon the filing of a petition the court shall refer the petition for investigation, report, and recommendation to:

(1) the licensed child-placing agency by which the case is supervised; or

(2) the Board of Commissioners, if the case is not supervised by a licensed child-placing agency.

(b) The investigation, report, and recommendation shall include:

(1) an investigation of:

(A) the truth of the allegations of the petition;

(B) the environment, antecedents, and assets, if any, of the prospective adoptee, to determine whether he is a proper subject for adoption;

(C) the home of the petitioner, to determine whether the home is a suitable one for the prospective adoptee; and

(D) any other circumstances and conditions that may have a bearing on the proposed adoption and of which the court should have knowledge;

(2) a written report to the court of the findings of the investigation; and

(3) a recommendation to the court whether a final decree declaring the adoption prayed for in the petition should be immediately granted, or whether the court should grant an interlocutory decree granting temporary custody of the prospective adoptee to the petitioner, as hereinafter set forth.

(c) The written report submitted to the court shall be filed with, and become part of, the records in the case.

**§ 16-308. Investigations when prospective adoptee is adult or petitioner is spouse of natural parent**

The court may dispense with the investigation, report, and interlocutory decree provided for by this chapter when:

- (1) the prospective adoptee is an adult; or
- (2) the petitioner is a spouse of the natural parent of the prospective adoptee and the natural parent consents to the adoption or joins in the petition for adoption.

**§ 16-309. Adoption proceedings**

(a) Within a period of ninety days, or such time as extended by the court, after a copy of the petition and the order providing for the report is served upon the agency directed to make the investigation, the agency shall make the report and recommendation required by section 16-307 to the court and thereupon the court shall proceed to act upon the petition.

(b) After considering the petition, the consents, and such evidence as the parties and any other properly interested person may present, the court may enter a final or interlocutory decree of adoption when it is satisfied that:

- (1) the prospective adoptee is physically, mentally, and otherwise suitable for adoption by the petitioner;
- (2) the petitioner is fit and able to give the prospective adoptee a proper home and education; and
- (3) the adoption will be for the best interests of the prospective adoptee.

(c) A final decree of adoption may not be entered unless the prospective adoptee has been living with the petitioner for at least six months.

(d) If it appears to be in the interest of the prospective adoptee, the court may enter an interlocutory decree of adoption, which shall by its terms automatically become a final decree of adoption on a day therein named, not less than six months nor more than one year, from the date of entry of the interlocutory decree, unless in the interim the decree shall have been set aside for cause shown. The supervising agency shall be permitted to visit the adoptee during the period of the interlocutory decree.

(e) The court may revoke its interlocutory decree for good cause shown at any time before it becomes a final decree, either on its own motion or on the motion of one of the parties to the adoption. Before the revocation, notice shall be given thereof to all those persons or parties who were given notice of the original petition for adoption, and an opportunity for all of them to be heard.

(f) All proceedings with reference to adoption shall be of a confidential nature and shall be held in chambers or in a sealed courtroom with as little publicity as the court deems appropriate.

**§ 16-310. Finality of decrees of adoption**

An attempt to invalidate a final decree of adoption by reason of a jurisdictional or procedural defect may not be received by any court of the District, unless regularly filed with the court within one year following the date the final decree became effective.

**§ 16-311. Sealing and inspection of records and papers**

From and after the filing of the petition, records and papers in adoption proceedings shall be sealed. They may not be inspected by any person, including the parties to the proceeding, except upon order of the court, and only then when the court is satisfied that the welfare of the child will thereby be promoted or protected. The clerk of the court shall keep a separate docket for adoption proceedings.

**§ 16-312. Legal effects of adoption**

(a) A final decree of adoption establishes the relationship of natural parent and natural child between adoptor and adoptee for all purposes, including mutual rights of inheritance and succession as if adoptee were born to adoptor. The adoptee takes from, through, and as a representative of his adoptive parent or parents in the same manner as a child by birth, and upon the death of an adoptee intestate, his property shall pass and be distributed in the same manner as if the adoptee had been born to the adopting parent or parents in lawful wedlock. All rights and duties including those of inheritance and succession between the adoptee, his natural parents, their issue, collateral relatives, and so forth, are cut off, except that when one of the natural parents is the spouse of the adoptor, the rights and relations as between adoptee, that natural parent, and his parents and collateral relatives, including mutual rights of inheritance and succession, are in no wise altered.

(b) While it is in force, an interlocutory decree of adoption has the same legal effect as a final decree of adoption. Upon the revocation of an interlocutory decree of adoption, the status of the adoptee, the natural parents of the adoptee, and the petitioners are as though the interlocutory decree were null and void ab initio.

(c) The family name of the adoptee shall be changed to that of the adopter unless the decree otherwise provides, and the given name of the adoptee may be fixed or changed at the same time.

**§ 16-313. Child as including adopted person**

In the District, "child" or its equivalent in a deed, grant, will, or other written instrument includes an adopted person, unless the contrary plainly appears by the terms thereof, whether the instrument was executed before or after the entry of the interlocutory decree of adoption, if any, or before or after the final decree of adoption became effective.

**§ 16-314. Birth certificates**

(a) Notice of a final decree of adoption shall be sent to the Board of Commissioners. Unless otherwise requested in the petition by the adopters, the Board shall cause to be made a new record of the birth in the new name and with the names of the adopters and shall then cause to be sealed and filed the original birth certificate with the order of the court. The sealed package may be opened only by order of the court.

(b) If the adoption occurred outside the District either before or after August 25, 1937, upon filing with the Board of Commissioners a certified copy of the final decree of adoption, the Board shall cause to be made a new record of the birth in the new name and with the names of the adopters and shall then cause to be sealed and filed the original birth certificate with the certified copy of the final decree of adoption. The sealed package may be opened only by order of a court of competent jurisdiction.

(c) If the birth of the adoptee occurred outside the District the clerk of the court shall, upon petition by the adopter, furnish him with a certified copy of the final decree of adoption.



(d) When an adoption in the District occurred prior to August 25, 1937, the court shall, upon presentation of a motion by a party to the proceedings, order the clerk of the court to seal the records in the proceeding. Upon presentation of a certified copy of the order the Board of Commissioners shall cause to be made a new record of the birth in the new name and with the names of the adopters and shall then cause to be sealed and filed the original birth certificate with the order of the court. The sealed package may be opened only by order of the court.

#### § 16-315. Prior proceedings

The provisions of this chapter have no effect prior to June 8, 1954, except to the extent that they specifically so provide. They do not affect in any way the rights and relations obtained by any decree of adoption entered prior to June 8, 1954.

### CHAPTER 5—ATTACHMENT AND GARNISHMENT

#### SUBCHAPTER I—ATTACHMENT AND GARNISHMENT GENERALLY

##### Sec.

- 16-501. Attachment before judgment; affidavit and bond.
- 16-502. Service of notice; publication.
- 16-503. Attachment for debt not due.
- 16-504. Additional attachment.
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- 16-506. Traversing affidavits; quashing writ of attachment; trial of issues.
- 16-507. Property subject to attachment; liens; priorities.
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**Subchapter I—Attachment and Garnishment Generally**

**§ 16-501. Attachment before judgment; affidavit and bond**

(a) This section applies to any civil action in the United States District Court of the District of Columbia or the District of Columbia Court of General Sessions, for the recovery of:

- (1) specific personal property;
- (2) a debt; or
- (3) damages for the breach of a contract, express or implied.

(b) In an action specified by subsection (a) of this section, the plaintiff, his agent, or attorney, may file an affidavit as provided by subsections (c) and (d) of this section either at the commencement of the action or pending the action.

(c) The affidavit shall comply with the following requirements:

- (1) show the grounds of plaintiff's claim;
- (2) set forth that plaintiff has a just right to recover what is claimed in his complaint;
- (3) where the action is to recover specific personal property, state the nature and, according to affiant's belief, the value of the property and the probable amount of damages to which plaintiff is entitled for the detention thereof;
- (4) where the action is to recover a debt, state the amount thereof; and
- (5) where the action is to recover damages for breach of a contract set out, specifically and in detail, the breach complained of and the actual damage resulting therefrom.

(d) The affidavit shall also state one of the following facts with respect to defendant:

(1) defendant is a foreign corporation or is not a resident of the District, or has been absent therefrom for at least six months;

(2) he evades the service of ordinary process by concealing himself or temporarily withdrawing himself from the District;

(3) he has removed or is about to remove some or all of his property from the District, so as to defeat just demands against him;

(4) he has assigned, conveyed, disposed of, or secreted, or is about to assign, convey, dispose of, or secrete his property with intent to hinder, delay, or defraud his creditors; or

(5) he fraudulently contracted the debt or incurred the obligation respecting which the action is brought.

(e) Before a writ of attachment and garnishment is issued, the plaintiff shall first file in the clerk's office a bond, executed by himself or his agent, with security to be approved by the clerk, in twice the amount of his claim, conditioned to make good to the defendant all costs and damages which he may sustain by reason of the wrongful suing out of the attachment.

(f) If the plaintiff files an affidavit and bond as provided by this section, the clerk shall issue a writ of attachment and garnishment, to be levied upon as much of the lands, tenements, goods, chattels, and credits of the defendant as may be necessary to satisfy the claim of the plaintiff.

#### § 16-502. Service of notice; publication

(a) A writ issued pursuant to section 16-501 shall require the marshal to serve a notice on the defendant, if he is found in the District, and on any person in whose possession any property or credits of the defendant may be attached, to appear in the court on or before the twentieth day, exclusive of Sundays and legal holidays, after service of the notice, and show cause, if any there be, why the property so attached should not be condemned and execution thereof had. The marshal's return shall show the fact of the service.

(b) If the defendant is returned "Not to be found," the notice shall be given by publication to the following effect, namely:

In the United States District Court (District of Columbia Court of General Sessions) for the District of Columbia.

A B, plaintiff,	}	Civil Action No. —.
versus		
C D, defendant,		

The object of this suit is to recover (here state it briefly) and to have judgment of condemnation of certain property of the defendant levied on under an attachment issued in this suit to satisfy the plaintiff's claim.

It is, therefore, this — day of —, ordered that the defendant appear in this court on or before the fortieth day, exclusive of Sundays and legal holidays, after the day of the first publication of this order, to defend this suit and show cause why the condemnation should not be had; otherwise the suit will be proceeded with as in case of default.

By the court:

\_\_\_\_\_, Judge.

(c) The order shall be published at least once a week for three successive weeks or oftener, or for such further time and in such manner as the court orders.

**§ 16-503. Attachment for debts not due**

A creditor may maintain an action and have an attachment against his debtor's property and credits, where his debt is not yet due and payable, if the plaintiff, his agent, or attorney files in the clerk's office, at the commencement of the action, an affidavit, supported by testimony of one or more witnesses, showing the amount and justice of the claim and the time when it will be payable, and also setting forth that the defendant has removed or is removing or intends to remove a material part of his property from the District with the intent or to the effect of defeating just claims against him if only the ordinary process of law is used to obtain judgment against him, and if he also complies with the condition as to filing a bond prescribed by section 16-501. The plaintiff may not have judgment before his claim becomes due. If the attachment is quashed the action shall be dismissed, but without prejudice to a future action.

**§ 16-504. Additional attachments**

Upon the application of the plaintiff, his agent, or attorney, other attachments founded on the original affidavits may be issued from time to time, to be directed, executed, and returned in the same manner as the original, and without further publication, against a nonresident or absent defendant, and without additional bond, unless required by the court.

**§ 16-505. Sufficiency of plaintiff's bond**

The defendant or any other person interested in the proceedings who is not satisfied with the sufficiency of the surety or with the amount of the penalty named in the bond filed pursuant to section 16-501, may apply to the court for an order requiring the plaintiff to give an additional bond in such sum and with such security as may be approved by the court. If the plaintiff fails to comply with any such order the court may order the attachment to be quashed and any property attached or its proceeds to be returned to the defendant or otherwise disposed of, as to the court may seem proper.

**§ 16-506. Traversing affidavits; quashing writ of attachment; trial of issues**

If the defendant files affidavits traversing the affidavits filed by the plaintiff the court shall determine whether the facts set forth in the plaintiff's affidavits as ground for issuing the attachment are true, and whether there was just ground for issuing the attachment. When, in the opinion of the court, the proofs do not sustain the affidavit of the plaintiff, his agent, or attorney, the court shall quash the writ of attachment. This issue may be tried by the court or a judge at chambers after three days' notice. The issue may be tried as well upon oral testimony as upon affidavits. If the court deems it expedient, a jury may be impaneled to try the issue.

**§ 16-507. Property subject to attachment; liens; priorities**

(a) An attachment may be levied on the lands and tenements, and personal chattels of the defendant not exempt by law, whether in the defendant's or a third person's possession, and whether the defendant's title to the property is legal or equitable, and upon his credits in the hands of a third person, whether due and payable or not, and upon his undivided interest in a partnership business.

(b) An attachment shall be a lien on the property attached from the date of its delivery to the marshal. When different persons obtain attachments against the same defendant the priorities of the liens of the attachments shall be according to the dates when they were so delivered to the marshal.



**§ 16-508. Attachment of real property**

An attachment is sufficiently levied on the lands and tenements of the defendant by:

(1) mentioning and describing the property in an indorsement on the attachment, made by the officer to whom it is delivered for service, to the following effect:

"Levied on the following estate of the defendant, A B, to wit: (Here describe) this — day of —. C D, Marshal."; and

(2) serving a copy of the attachment, with the indorsement, and the notice required by section 16-502, on the person, if any, in possession of the property.

**§ 16-509. Attachment of personal property; undertaking by defendant or person in possession**

(a) An attachment shall be levied upon personal chattels by the officer taking them into his possession and custody, unless the defendant gives the officer his undertaking to be filed in the cause, with sufficient security, substantially in the form set forth in subsection (b) of this section, or unless the person in whose possession the property is attached gives the officer his undertaking to be filed in the cause substantially in the form set forth in subsection (c) of this section. In cases where such undertakings are given, the attachment is sufficiently levied by the taking of the undertaking.

(b) An undertaking by the defendant shall contain the substance of the following form:

A B, plaintiff,	}	Civil Action No. —.
versus		
C D, defendant.		

The defendant and —, his surety, in consideration of the discharge from the custody of the marshal of the property seized by him, upon the attachment sued out against the defendant, on the — day of —, anno Domini nineteen hundred —, in the above entitled cause, appear, and submitting to the jurisdiction of the court, hereby undertake, for themselves and each of them, their and each of their heirs, executors, and administrators, or successors or assigns, to abide by and perform the judgment of the court in the premises in relation to the property, which judgment may be rendered against any or all the parties whose names are hereto signed.

(Signed)

C D.  
E F.

(c) An undertaking by the person in whose possession the property is attached shall contain the substance of the following form:

A B, plaintiff	}	Civil Action No. -----
versus		
C D, defendant		

Whereas by virtue of an attachment issued in the above-entitled suit, the United States marshal for the District of Columbia has attached certain property in the hands of the undersigned E F, as garnishee, namely, (here describe) of the value of — dollars; and now, therefore, E F and G H, as surety, appearing in the action, and submitting to the jurisdiction of the court, hereby undertake for themselves and each of them, their and each of their heirs, executors, and administrators to abide by the judgment of the court in relation to said property, and that if the same shall be condemned to satisfy the claim of the plaintiff, judgment may be rendered against all the undersigned for the value of the property and costs, to be

executed against them, and each of them, unless the property shall be forthcoming to satisfy the judgment of condemnation.

(Signed)

E F.  
G H.

The recital of the undertaking in this subsection shall contain a sufficient description of the property and its value ascertained by an appraisal to be made under direction of the officer and returned with the writ.

**§ 16-510. Release of property or credits from attachment; sufficiency of undertaking**

(a) Either the defendant or the person in whose possession the property is attached may obtain a release of the property from the attachment, after it has been taken into the custody of the marshal and the writ has been returned, by giving the undertaking required of him by section 16-509, with security to be approved by the court.

(b) The plaintiff may except to the sufficiency of the undertaking accepted by the marshal and, if the exceptions are sustained, the court shall require a new undertaking, with sufficient surety, by a day to be named, in default of which the marshal shall be liable to the plaintiff on his official bond for any loss sustained by the plaintiff through the default.

(c) Either the defendant or the person in whose possession credits are attached may obtain a release of the credits from the attachment by filing an undertaking with security to be approved by the court.

**§ 16-511. Attachment of credits or partnership interest; retention of property or credits by garnishee**

(a) An attachment shall be levied upon credits of the defendant, in the hands of a garnishee, by serving the garnishee with a copy of the writ of attachment and of the interrogatories accompanying the writ, and a notice that any property or credits of the defendant in his hands are seized by virtue of the attachment, besides the notice required by section 16-502. The undivided interest of the defendant in a partnership business may be levied upon by a similar service on the defendant's partner or partners.

(b) Where the property or credits attached or sought to be attached are held by the garnishee in the name of or for the account of a person other than the defendant, the garnishee shall retain the property or credits during the period pending determination by the court of the propriety of the attachment or the rightful owner of the property or credits. During that period, the garnishee shall incur no liability for the retention.

**§ 16-512. Attachment and levy upon wages of nonresident**

An attachment issued under section 16-501 solely on the ground that the defendant is not a resident of the District of Columbia and levied upon wages as defined in section 16-571 shall be subject to the provisions of subchapter III of this chapter; except that the employer-garnishee shall pay over the wages withheld pursuant to that subchapter only pursuant to the order of the court which has jurisdiction of the case. In applying the provisions of that subchapter to any such attachment, the term "judgment debtor", as used therein, means the defendant in the case in which the attachment is issued; and the term "judgment creditor", as used therein, means the plaintiff in such case.

**§ 16-513. Advance payment of wages to avoid attachment or garnishment**

It is unlawful for an employer to pay salary or earnings to an employee in advance of the time they are due and payable, for the purpose of avoiding or preventing an attachment or garnishment against the earnings or salary of the employee, and such an advance payment, as to the attaching creditor, is void.

After the service of one writ of attachment or garnishment on a judgment against an employer, any payment of salary or earnings thereafter before the time when the salary or earnings are due and payable made within a period of six months after the date of service of the writ or before the earlier satisfaction of the judgment, whichever is the earlier, is as to such attaching creditor presumed to be in violation of this section and casts upon the employer the burden of proving that the advance payment or payments were not for the purpose of avoiding the attachment of the salary or earnings.

**§ 16-514. Credits or property held for two or more persons or in representative capacity**

When a writ of attachment is served on a garnishee, and the garnishee holds a credit or property for two or more persons, including the person whose credit or property is sought to be attached, or holds a credit or property for a person as agent or trustee or in any other representative capacity without designation of the principal or beneficiary, the credit or property is not subject to withdrawal by any person, but shall be held by the garnishee until the attachment is dismissed or otherwise disposed of by the court. If the credit or property is condemned, payment or delivery thereof as ordered by the court is a complete discharge of the garnishee from all liability to any person in respect of the credit or property. The provisions of this section do not apply to a credit or property of a partnership.

**§ 16-515. Attachment of judgments and money or property in hands of marshal**

(a) An attachment may be levied upon debts due to the defendant upon a judgment or decree by a service similar to that directed by section 16-511 upon the debtor owing the debts. Execution may issue for the enforcement of the judgment or decree, notwithstanding the attachment, but the money collected upon the execution shall be paid into court to abide the event of the proceedings in attachment and applied as the court directs.

(b) An attachment may be levied upon money or property of the defendant in the hands of the marshal. It binds the money or property from the time of service, and is a legal excuse to the officer for not paying or delivering the same as he would otherwise be bound to do.

**§ 16-516. Attachment of money or property in hands of executor or administrator**

An attachment may be levied upon money or property of the defendant in the hands of an executor or administrator, and binds the same from the time of service. If the executor or administrator makes return to the writ that he can not certainly answer whether the defendant's share of the money or property in his hands will prove sufficient to pay the plaintiff's debt, a judgment of condemnation may not be rendered as against the executor or administrator until the passage by the Probate Court of his final or other account showing money or property in his hands to which the defendant is entitled.

**§ 16-517. Attachment of other property in replevin action**

Where the action is to replevy specific personal property and it has not been replevied, other property may be attached in the action to recover damages and costs, and if a judgment is rendered for damages and costs, it shall carry the same rights as other judgments.

**§ 16-518. Preservation of property; sale; receiver**

The court may make all orders necessary for the preservation of the property attached during the pendency of the action. When the property is perishable, or for other reasons a sale of it appears expedient, the court may order that the property be sold and its proceeds paid into court and held subject to its order on the final decision of the case.

When it seems expedient, the court may appoint a receiver to take possession of the property. The receiver shall give bond for the due performance of his duties, and, under the direction of the court, shall have the same powers and perform the same duties as a receiver appointed according to the practice in civil actions.

**§ 16-519. Defenses by garnishee**

A garnishee in an attachment proceeding may make any defense available to the defendant in the action in which the garnishment is issued.

**§ 16-520. Defending against the attachment; trial of issues**

A defendant, any garnishee, party to a forthcoming undertaking, or an officer who might be adjudged liable to the plaintiff by reason of the undertaking being adjudged insufficient, or a stranger to the action who may make claim to the property attached, may file an answer defending against the attachment. The answer may be considered as raising an issue without any reply, and any issue of fact made may be tried with a jury if any party so desires.

**§ 16-521. Interrogatories to garnishee; oral examination**

(a) In any case in which a writ of attachment is issued, the plaintiff may submit interrogatories in writing, in such form as may be allowed by the rules or special order of the court, to be served on any garnishee, asking about any property of the defendant in his possession or charge, or indebtedness of his to the defendant at the time of the service of the attachment, or between the time of service and the filing of his answers to the interrogatories. The garnishee shall file his answers under oath to the interrogatories within ten days after service upon him.

(b) In addition to the answers to written interrogatories required of him, the garnishee may, on motion, be required to appear in court and be examined orally, under oath, touching any property or credits of the defendant in his hands.

**§ 16-522. Traverse of garnishee's answers; trial of issue; costs and attorney's fee**

If any garnishee answers to interrogatories that he does not have property or credits of the defendant, or has less than the amount of the plaintiff's claim, the plaintiff may traverse the answer as to the existence or amount of the property or credits, and the issue thereby made may be tried as provided by section 16-520. In such a case, where judgment is rendered for the garnishee, the plaintiff shall be adjudged to pay to the garnishee, in addition to the taxed costs, a reasonable attorney's fee. If the issue is found for the plaintiff, judgment shall be rendered for him in accordance with the finding.



**§ 16-523. Claims to attached property**

Any person may file his motion and affidavit in the cause, at any time before the final disposition of the property attached or its proceeds, except where it is real property, setting forth a claim thereto or an interest in or lien upon the same, acquired before the levy of the attachment. The court, without other pleading, shall try the issues raised by the claim, with a jury if either party so requests, and make all orders necessary to protect any rights of the claimant.

**§ 16-524. Judgment generally; condemnation of attached property**

(a) If the defendant in the action has been served with process, final judgment may not be rendered against the garnishee until the action against the defendant is determined.

(b) If in such an action judgment is rendered for the defendant, the garnishee shall be discharged and shall recover his costs, and the property attached or its proceeds shall be restored to the garnishee or to the defendant, as the case may require.

(c) If in such an action judgment is rendered in favor of the plaintiff against the defendant, and it appears that the plaintiff is entitled to a judgment of condemnation of the property attached, the court shall proceed to enter such judgment in the attachment as is directed by sections 16-525 to 16-527.

**§ 16-525. Condemnation and sale of property; proceeds of sale under interlocutory order**

In any form of action, where specific property has been attached and remains under the control of the court, judgment of condemnation of the property shall be entered, and as much thereof as may be necessary to satisfy the demand of the plaintiff shall be sold under fieri-facias. If the property was sold under interlocutory order of the court, the proceeds, or as much thereof as may be necessary, shall be applied to the plaintiff's claim by order of the court.

**§ 16-526. Judgment against garnishee**

(a) When a garnishee has admitted credits in his hands, in answer to interrogatories served upon him, or the credits have been found upon an issue made as provided by this chapter, judgment shall be entered against him for the amount of credits admitted or found, not exceeding the plaintiff's claim, less a reasonable attorney's fee to be fixed by the court, and costs, and execution may be had thereon. When the credits are not immediately due and payable, execution shall be stayed until they become due.

(b) When the garnishee has failed to answer the interrogatories served on him, or to appear and show cause why a judgment of condemnation should not be entered, judgment shall be entered against him for the whole amount of the plaintiff's claim, and costs, and execution may be had thereon.

**§ 16-527. Judgment in case of undertaking for retention of property or credits**

(a) When property or credits attached are released upon an undertaking given as provided by sections 16-509 and 16-510, and judgment in the action is rendered in favor of the plaintiff, it is a joint judgment against both the defendant and all persons in the undertaking for the appraised value of the property or the amount of the credits.

(b) When the property attached has been delivered to or retained by a garnishee, upon his executing an undertaking as provided by section 16-509, judgment of condemnation of the property shall be rendered as provided by section 16-525, and judgment shall also be entered that

the plaintiff recover from the garnishee and his surety or sureties the value of the property, not exceeding the plaintiff's claim, the judgment to be entered satisfied if the property is forthcoming and delivered to the marshal, undiminished in value, within ten days after the judgment; otherwise, execution thereon may be had against the garnishee and his surety or sureties; and if the property is so delivered to the marshal the same shall be sold by him under fieri facias to satisfy the judgment of condemnation.

#### **§ 16-528. Judgment protects garnishee**

A judgment of condemnation against a garnishee, and execution thereon, or payment by the garnishee in obedience to the judgment or an order of the court, is a sufficient defense to any action brought against him by the defendant in the action in which the attachment is issued, for or concerning the property or credits so condemned.

#### **§ 16-529. Attachment in actions for fraudulent conveyances**

(a) Where the ground upon which an attachment is applied for is that the defendant has assigned, conveyed, or disposed of his property with intent to hinder, delay, or defraud his creditors, the attachment may be levied upon the property alleged to be so assigned or conveyed in the hands of the alleged fraudulent assignee or transferee, as a garnishee.

(b) The garnishee may have the same benefit of section 16-506 as the defendant in the action. If the court is of the opinion, upon the hearing of the affidavits filed, that the attachment ought not to have issued or to have been levied on the property claimed by the garnishee, the attachment may be quashed as to the garnishee and the levy set aside.

(c) If the levy is not set aside, the garnishee may answer that he was a bona fide purchaser from the defendant for value without notice of any fraud on the part of the defendant, and the answer shall be held to make an issue, without any further pleading in reply thereto; and issue may be tried as directed by section 16-520.

(d) When the issue is found in favor of the garnishee, judgment shall be rendered in his favor for his costs and a reasonable attorney fee. When the issue is found against the garnishee, but judgment in the action is rendered in favor of the defendant, the attachment shall be dissolved, and garnishee shall recover his costs.

(e) When the issue is found against the garnishee and judgment in the action is rendered in favor of the plaintiff against the defendant, or the defendant, not being found, has failed to appear in obedience to the order of publication against him, and when it appears upon the verdict of a jury that the claim of the plaintiff against the defendant is well founded, a judgment of condemnation of the property attached shall be rendered, as directed by section 16-524(c).

#### **§ 16-530. Time for trial of issues**

All issues raised by answers to the attachment, in any case, may be tried at the same time as the issues raised by the pleadings in the action, or separately, as may be just.

#### **§ 16-531. Attachment dockets; index of attachments**

The clerk of the court shall keep an attachment docket, in which, as well as in the regular docket, shall be entered all attachments levied upon real estate, with a description, in brief, of the real estate so levied upon. The attachments shall be indexed in the names of the defendant and of any person in whose possession the estate may have been levied upon.

**§ 16-532. Other remedies of judgment creditor**

Nothing herein contained deprives a judgment creditor of the right to file a civil action to enforce his judgment against an equitable interest in real or personal estate of the judgment defendant, or to have a conveyance of the real or personal estate by the defendant, made with intent to hinder, delay, and defraud his creditors, set aside.

**§ 16-533. Attachment proceedings in Court of General Sessions**

The provisions of this Code relating to attachments apply to attachment proceedings in the District of Columbia Court of General Sessions.

**Subchapter II—Attachment and Garnishment After Judgment in Aid of Execution****§ 16-541. Definition and applicability**

As used in this subchapter, "judgment" includes an unconditional decree for the payment of money, and this subchapter is applicable to such a decree.

**§ 16-542. Issuance of attachment after judgment; costs**

An attachment may be issued upon a judgment either before or after or at the same time with a fieri facias. If costs are unnecessarily multiplied thereby they shall be charged to the party causing the attachment to be issued.

**§ 16-543. Revival of judgment unnecessary**

Attachment may be issued at any time during the life of the judgment, without issuing an order reviving the judgment previously thereto.

**§ 16-544. Property subject to attachment**

An attachment may be levied upon the judgment debtor's goods, chattels, and credits.

**§ 16-545. Multiple attachments against same judgment debtor**

Only one attachment upon goods, chattels, and credits of a judgment debtor may be satisfied at one time. Where more than one such attachment issued against the same judgment debtor is served on a garnishee the attachments shall be satisfied in the order in which they were served upon the garnishee. This section does not apply with respect to an attachment upon wages to which subchapter III of this chapter applies.

**§ 16-546. Attachments of credits**

An attachment shall be levied upon credits of the defendant, in the hands of a garnishee, by serving the garnishee with a copy of the writ of attachment and of the interrogatories accompanying the writ, and a notice that any property or credits of the defendant in his hands are seized by virtue of the attachment.

**§ 16-547. Retention of property or credits by garnishee**

Where the property or credits attached or sought to be attached are held by the garnishee in the name of or for the account of a person other than the defendant, the garnishee shall retain the property or credits during the period pending determination by the court of the propriety of the attachment or the rightful owner of the property or credits. During that period the garnishee shall incur no liability whatsoever for the retention.

**§ 16-548. Attachment of judgments and money or property in hands of marshal**

(a) An attachment may be levied upon debts due to the defendant upon a judgment or decree by a service similar to that prescribed by section 16-546 upon the debtor owing the debts.

(b) An attachment may be levied upon money or property of the defendant in the hands of the marshal. It binds the money or property from the time of service, and is a legal excuse to the officer for not paying or delivering the same as he would otherwise be bound to do.

**§ 16-549. Attachment of money or property in hands of executor or administrator**

An attachment may be levied upon money or property of the defendant in the hands of an executor or administrator, and binds the same from the time of service. If the executor or administrator makes return to the writ that he can not certainly answer whether the defendant's share of the money or property in his hands will prove sufficient to pay the plaintiff's debt, a judgment of condemnation may not be rendered as against the executor or administrator until the passage by the Probate Court of his final or other account showing money or property in his hands to which the defendant is entitled.

**§ 16-550. Preservation of property; sale**

The court may make all orders necessary for the preservation of the property attached. When the property is perishable, or for other reasons a sale of it appears expedient, the court may order that the property be sold and its proceeds paid into court and held subject to its order on the final decision of the case.

**§ 16-551. Defending against the attachment; trial of issues**

A garnishee or stranger to the action who may make claim to the property attached may file an answer defending against the attachment. The answer may be considered as raising an issue without any reply, and any issue of fact thereby made may be tried with a jury if any party so desires.

**§ 16-552. Interrogatories to garnishee; oral examination**

(a) In any case in which a writ of attachment is issued, the plaintiff may submit interrogatories in writing, in such form as may be allowed by the rules or special order of the court, to be served upon any garnishee, asking about any property of the defendant in his possession or charge, or indebtedness of his to the defendant at the time of the service of the attachment or between the time of service and the filing of his answers to the interrogatories. The garnishee shall file his answers, verified by a written declaration that the answers are made under the penalties of perjury, to the interrogatories within ten days after service upon him.

(b) In addition to the answers to written interrogatories required of him, the garnishee may, on motion, be required to appear in court and be examined orally, under oath, touching any property or credits of the defendant in his hands.

(c) Whoever willfully makes and subscribes a return, statement, or other document, pursuant to this section, that contains, or is verified by, a written declaration that it is made under the penalties of perjury, and that he does not believe to be true and correct as to every material matter, is subject to the penalties prescribed for perjury.



**§ 16-553. Traverse of garnishee's answers; trial of issue; costs and attorney's fee**

If a garnishee answers to interrogatories that he does not have property or credits of the defendant, or has less than the amount of the plaintiff's judgment, the plaintiff may traverse the answer as to the existence or amount of the property or credits, and the issue thereby made may be tried as provided by section 16-551. In such a case, where judgment is rendered for the garnishee, the plaintiff shall be adjudged to pay to the garnishee, in addition to the taxed costs, a reasonable attorney's fee. If the issue is found for the plaintiff, judgment shall be rendered for him in accordance with the finding.

**§ 16-554. Claims to attached property**

Any person may file his motion and affidavit in the cause, at any time before the final disposition of the property attached or its proceeds, except where it is real property, setting forth a claim thereto or an interest in or lien upon the same. The court, without other pleadings, shall try the issues raised by the claim, with a jury if either party so requests, and may make all orders necessary to protect any rights of the claimant.

**§ 16-555. Condemnation and sale of property; proceeds of sale under interlocutory order**

Where the attachment has been levied upon specific property, on the return by the marshal, judgment of condemnation of the property may be entered, and as much thereof as may be necessary to satisfy the plaintiff's judgment may be sold under a fieri facias. If the property was sold under interlocutory order of the court, the proceeds, or so much thereof as may be necessary, shall be applied to the plaintiff's claim by order of the court.

**§ 16-556. Judgment against garnishee**

(a) Subject to the provisions of subchapter III of this chapter, if a garnishee has admitted credits in his hands, in answer to interrogatories served upon him, or the credits have been found upon an issue made as provided by this chapter, judgment shall be entered against him for the amount of credits admitted or found, not exceeding the amount of the plaintiff's judgment, and costs, and execution shall be had thereon not to exceed the credits in his hands. When the credits are not immediately due and payable, execution shall be stayed until they become due.

(b) When the garnishee has failed to answer the interrogatories served on him, or to appear and show cause why a judgment of condemnation should not be entered, judgment shall be entered against him for the whole amount of the plaintiff's judgment and costs, and execution may be had thereon.

**Subchapter III—Attachment and Garnishment of Wages, Etc.****§ 16-571. Definition**

(a) As used in this subchapter, "wages" means:

(1) wages, salary, commissions, or other remuneration for services performed by an employee for his employer, including any such remuneration measured partly or wholly by percentages or share of profits, or by other sums based upon work done or results produced, whether or not the employee is given a drawing account; and

(2) any drawing account made available to an employee by his employer.

(b) The term "wages" does not include any amount paid or payable to an employee who is not a resident of the District of Columbia as remuneration for services performed within the District of Columbia, if the period for which the employee is engaged by the employer to perform such services within the District of Columbia is less than 15 consecutive days' duration; and any such amount shall be subject to attachment without regard to this subchapter.

**§ 16-572. Attachment of wages; percentage limitations; priority of attachments**

Notwithstanding any other provision of subchapter II of this chapter, where an attachment is levied upon wages due a judgment debtor from an employer-garnishee, the attachment shall become a lien and a continuing levy upon the gross wages due or to become due to the judgment debtor for the amount specified in the attachment to the extent of:

(1) 10 per centum of so much of the gross wages as does not exceed \$200 due or to become due to the judgment debtor from the employer-garnishee for the pay period or periods ending in any calendar month; plus

(2) 20 per centum of so much of the gross wages as exceeds \$200 but does not exceed \$500 due or to become due to the judgment debtor from the employer-garnishee for the pay period or periods ending in any calendar month; plus

(3) 50 per centum of so much of the gross wages as exceeds \$500 due or to become due to the judgment debtor from the employer-garnishee for the pay period or periods ending in any calendar month.

The levy shall be a continuing levy until the judgment, interest, and costs thereof are fully satisfied and paid, and in no event may moneys be withheld, by the employer-garnishee from the judgment debtor, in amounts greater than those prescribed by this section. Only one attachment upon the wages of a judgment debtor may be satisfied at one time. Where more than one attachment is issued upon the wages of the same judgment debtor and served upon the same employer-garnishee, the attachment first delivered to the marshal shall have priority, and all subsequent attachments shall be satisfied in the order of priority set forth in section 16-507.

**§ 16-573. Employer's duty to withhold and make payments; percentage**

(a) Except as provided in subsection (b) of this section, an employer upon whom an attachment is served, and who:

(1) at the time is indebted for wages to an employee who is the judgment debtor named in the attachment; or

(2) becomes so indebted to the judgment debtor in the future—

shall, while the attachment remains a lien upon such indebtedness, withhold and pay to the judgment creditor, or his legal representative, within 15 days after the close of the last pay period of the judgment debtor ending in each calendar month, that percentage of the gross wages payable to the judgment debtor for the pay period or periods ending in such calendar month to which the judgment creditor is entitled under the terms of this section until the attachment is wholly satisfied.

(b) Upon written notice of any court proceeding attacking the attachment or the judgment on which it is based, the employer shall make no further payments to the judgment creditor or his legal representative until receipt of an order of court terminating the proceedings.

(c) Any payments made by an employer-garnishee in conformity with this section shall be a discharge of the liability of the employer to the judgment debtor to the extent of the payment.

(d) Under this section the employer-garnishee shall not withhold or pay over more than 10 per centum of the gross wages payable to the judgment debtor for any pay period ending in any calendar month until the total amount of gross wages paid or payable to the judgment debtor for all pay periods ending in such calendar month equals \$200, nor more than 20 per centum of the gross wages in excess of \$200 payable to the judgment debtor for any pay period ending in any calendar month until the total amount of gross wages paid or payable to the judgment debtor for all pay periods ending in such calendar month equals \$500.

**§ 16-574. Judgment creditor to file receipts, in court, of amount collected**

(a) The judgment creditor shall:

(1) file with the clerk of the court, every three months after the serving of an attachment upon an employer-garnishee, a receipt showing the amount received and the balance due under the attachment as of the date of filing;

(2) file a final receipt with the court and furnish a copy thereof to the employee-garnishee; and

(3) obtain a vacation of the attachment within 20 days after the attachment has been satisfied.

(b) If the judgment creditor fails to file any of the receipts prescribed by subsection (a) of this section, an interested party may move the court to compel the defaulting judgment creditor to appear in court and make an accounting forthwith. The court may, in its discretion, enter judgment for any damages, including a reasonable attorney's fee suffered by, and tax costs in favor of, the party filing the motion to compel the accounting.

**§ 16-575. Judgment against employer-garnishee for failure to pay percentages**

If the employer-garnishee fails to pay to the judgment creditor the percentages prescribed in this subchapter of the wages which become payable to the judgment debtor for any pay period, judgment shall be entered against him for an amount equal to the percentages with respect to which the failure occurs.

**§ 16-576. Lapse of attachment upon resignation or dismissal of employee**

If a judgment debtor resigns or is dismissed from his employment while an attachment upon his wages is wholly or partly unsatisfied, the attachment shall lapse and no further deduction may be made thereon unless the judgment debtor is reinstated or reemployed within 90 days after the resignation or dismissal.

**§ 16-577. Applicability of per centum limitations to judgments for support**

The per centum limitations prescribed by section 16-572 do not apply in the case of execution upon a judgment, order, or decree of any court of the District of Columbia for the payment of any sum for the support or maintenance of a person's wife, or former wife, or children, and any such execution, judgment, order, or decree shall, in the discretion of the court, have priority over any other execution which is subject to the provisions of this subchapter. In the case of execution upon such a judgment, order, or decree for the payment of such sum for support or maintenance, the limitation shall be 50 per centum of the gross wages due or to become due to any such person for the pay period or periods ending in any calendar month.

**§ 16-578. Court of General Sessions judgments; lapse; validity**

An attachment issued by the District of Columbia Court of General Sessions upon a judgment of that court duly docketed in the United States District Court for the District of Columbia, and levied within six years from the date of the judgment upon the wages due or to become due to the judgment debtor from the employer-garnishee, shall not lapse or become invalid prior to complete satisfaction solely by reason of the expiration of the period of limitation set forth in section 15-132(a).

**§ 16-579. Payments by employer-garnishee where employee has no salary or salary inadequate for services rendered**

Where the judgment debtor claims or is proved to be rendering services to or employed by a relative or other person or by a corporation owned or controlled by a relative or other person, without salary or compensation, or at a salary or compensation so inadequate as to satisfy the court that the salary or compensation is merely colorable and designed to defraud or impede the creditors of the debtor, the court may direct the employer-garnishee to make payments on account of the judgment, in installments, based upon a reasonable value of the services rendered by the judgment debtor under his employment or upon the debtor's then earning ability.

**§ 16-580. Quashing attachment where judgment obtained to hinder just claims**

Where an attachment levied under this subchapter is based upon a judgment obtained by default or consent without a trial upon the merits, the court, upon motion of an interested person, may quash the attachment upon satisfactory proof that the judgment was obtained without just cause and solely for the purpose of preventing or delaying the satisfaction of just claims.

**§ 16-581. Rules of procedure**

The judges of the District of Columbia Court of General Sessions and of the United States District Court for the District of Columbia shall establish such rules of procedure for their respective courts as may be necessary to effectuate the purposes of this subchapter.

**§ 16-582. Attachments to which this subchapter is applicable**

This subchapter applies only with respect to attachments upon wages, as defined by section 16-571, issued on or after 60 days from August 4, 1959.

**CHAPTER 7—CRIMINAL PROCEEDINGS IN THE COURT OF GENERAL SESSIONS**

Sec.

16-701. Rules and regulations.

16-702. Information, prosecution by.

16-703. Process of criminal division; fees.

16-704. Bail; collateral security.

16-705. Jury trial; trial by court.

16-706. Enforcement of judgments; commitment upon non-payment of fine.

16-707. Disposition of fines.

16-708. Penalties for wrongful conversion of forfeitures and fines.

16-709. Executions on forfeited recognizances and judgments.

16-710. Suspension of imposition or execution of sentence.

**§ 16-701. Rules and regulations**

The District of the Columbia Court of General Sessions may make rules and regulations deemed necessary and proper for conducting business in the criminal division of the court.



**§ 16-702. Information, prosecution by**

Prosecutions in the criminal division of the District of Columbia Court of General Sessions shall be by information by the proper prosecuting officer.

**§ 16-703. Process of criminal division; fees**

(a) The criminal division of the District of Columbia Court of General Sessions may issue process for the arrest of persons against whom an information is filed or complaint under oath is made.

(b) Process shall:

- (1) be under the seal of the court;
- (2) bear teste in the name of a judge of the court; and
- (3) be signed by the clerk.

(c) In cases arising out of violations of any of the ordinances or laws of the District, process shall be directed to the Chief of Police, who shall execute the process and make return thereof in like manner as in other cases.

(d) In criminal cases cognizable in the United States District Court for the District of Columbia the process issued by the Court of General Sessions shall be directed to the United States marshal, except in cases of emergency, when it may be directed to the Chief of Police.

(e) For services pursuant to subsection (d) of this section the marshal shall receive the fees prescribed by section 15-709(b)(2).

**§ 16-704. Bail; collateral security**

(a) A person charged with an offense triable in the criminal division of the Court of General Sessions may give security for his appearance for trial or for further hearing, either by giving bond to the satisfaction of the court or by depositing money as collateral security with the appropriate officer at the court or the station keeper of the police precinct within which he is apprehended. When a sum of money is deposited as collateral security as provided by this section it shall remain, in contemplation of law, the property of the person depositing it until duly forfeited by the court. When forfeited, it shall be, in contemplation of law, the property of the United States of America or of the District of Columbia, according as the charge against the person depositing it is instituted on behalf of the United States or of the District. Every person receiving any sum of money deposited as provided by this section shall be deemed in law the agent of the person depositing it or of the United States or the District, as the case may be, for all purposes of properly preserving and accounting for money.

(b) This section does not affect the ultimate rights under existing law of the Washington Humane Society of the District of Columbia, in or to any forfeitures collected in the criminal division of the Court of General Sessions.

**§ 16-705. Jury trial; trial by court**

(a) In a criminal prosecution within the jurisdiction of the Court of General Sessions in which, according to the Constitution of the United States, the accused would be entitled to a jury trial, the trial shall be by jury, unless the accused in open court expressly waives trial by jury and requests to be tried by the judge. In the latter case, the trial shall be by the judge, and the judgment and sentence shall have the same force and effect in all respects as if they had been entered and pronounced upon the verdict of a jury.

(b) In any case where the accused would not by force of the Constitution of the United States be entitled to a trial by jury, the trial shall be by the court without a jury, unless it is a case wherein the fine or penalty may be more than \$300, or imprisonment as punishment

for the offense may be more than ninety days and the accused demands a trial by jury. In the latter case the trial shall be by jury.

(c) The jury for service in the criminal division of the court shall consist of twelve persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than twelve.

#### **§ 16-706. Enforcement of judgments; commitment upon non-payment of fine**

The Court of General Sessions may enforce any of its judgments rendered in criminal cases by fine or imprisonment, or both. Except as otherwise provided by law, in any case where the criminal division of the court imposes a fine, the court may, in default of the payment of the fine imposed, commit the defendant for such a term as the court deems right and proper, not to exceed one year.

#### **§ 16-707. Disposition of fines**

(a) All fines payable and paid under judgment of the criminal division of the Court of General Sessions shall, upon their payment, immediately become, in contemplation of law, the property of the United States or the District of Columbia, according to the charge upon which the fine may be adjudged. Every person receiving such a fine shall be deemed in law an agent of the United States or the District, as the case may be.

(b) This section does not affect the ultimate rights under existing law of the Washington Humane Society of the District of Columbia, in or to any fines paid in the criminal division of the Court of General Sessions.

#### **§ 16-708. Penalties for wrongful conversion of forfeitures and fines**

Whoever, being an agent as contemplated and defined by section 16-704(a), or by section 16-707(a), wrongfully converts to his own use any money received by him as provided therein, is guilty of embezzlement, and shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

#### **§ 16-709. Executions on forfeited recognizances and judgments**

The Court of General Sessions may issue execution on all recognizances forfeited in its criminal division, upon motion of the prosecuting officer; and all writs of fieri facias or other writs of execution on judgments issued by the criminal division shall be directed to and executed by the United States marshal.

#### **§ 16-710. Suspension of imposition or execution of sentence**

In criminal cases in the District of Columbia Court of General Sessions, the court may, upon conviction, suspend the imposition of sentence or impose sentence and suspend the execution thereof, for such time and upon such terms as it deems best, if it appears to the satisfaction of the court that the ends of justice and the best interests of the public and of the defendant would be served thereby. In each case of the imposition of sentence and the suspension of the execution thereof, the court may place the defendant on probation under the control and supervision of a probation officer. The probationer shall be provided by the clerk of the court with a written statement of the terms and conditions of his probation at the time when he is placed thereon. He shall observe the rules prescribed for his conduct by the court and report to the probation officer as directed. A person may not be put on probation without his consent.

## CHAPTER 9—DIVORCE, ANNULMENT, SEPARATION, SUPPORT, ETC.

Sec.

- 16-901. Definition.
- 16-902. Residence requirements.
- 16-903. Decree annulling marriage.
- 16-904. Grounds for divorce, legal separation and annulment.
- 16-905. Revocation of decree of divorce from bed and board.
- 16-906. Causes for absolute divorce arising after decree for separation.
- 16-907. Legitimacy of issue of annulled marriage contracted while another in force.
- 16-908. Legitimacy of issue of annulled marriage with lunatic.
- 16-909. Legitimacy of issue of divorced marriage.
- 16-910. Dissolution of property rights; jurisdiction of court.
- 16-911. Alimony pendente lite; suit money; enforcement; custody of children.
- 16-912. Permanent alimony; enforcement; retention of dower.
- 16-913. Alimony when divorce is granted on husband's application.
- 16-914. Retention of jurisdiction as to alimony and custody of children.
- 16-915. Restoration of wife's maiden or other previous name.
- 16-916. Maintenance of wife and minor children; enforcement.
- 16-917. Co-respondents as defendants; service of process.
- 16-918. Assignment of counsel in uncontested cases; compensation.
- 16-919. Proof required on default or admission of defendant.
- 16-920. Effective date of final decree; contents.
- 16-921. Validity of marriage, action to determine.
- 16-922. Validity of marriages and divorces solemnized or pronounced before January 1, 1902.

### § 16-901. Definition

As used in this chapter, "court" means the Domestic Relations Branch of the District of Columbia Court of General Sessions.

### § 16-902. Residence requirements

A decree of nullity of marriage or divorce may not be rendered in favor of anyone who has not been a bona fide resident of the District of Columbia for at least one year next before the application therefor, and a divorce may not be decreed in favor of any person who has not been a bona fide resident of the District for at least two years next before the application therefor for any cause that has occurred out of the District and prior to residence therein.

### § 16-903. Decree annulling marriage

A decree annulling the marriage as illegal and void may be rendered on any of the grounds specified by sections 30-101 and 30-103 as invalidating a marriage.

### § 16-904. Grounds for divorce, legal separation and annulment

(a) A divorce from the bond of marriage or a legal separation from bed and board may be granted for:

- (1) adultery;
- (2) desertion for two years;
- (3) voluntary separation from bed and board for five consecutive years without cohabitation; or
- (4) final conviction of a felony involving moral turpitude and sentence for not less than two years to a penal institution that is served in whole or part.

A legal separation from bed and board may also be granted for cruelty; and where a final decree of divorce from bed and board is or has been granted and the separation of the parties continues or has continued for two years after or since date of decree, the decree may be enlarged into a decree of absolute divorce from the bond of marriage upon application of the innocent spouse.

(b) Marriage contracts may be declared void where:

- (1) the 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) the marriage was contracted during the lunacy of either party, unless there has been voluntary cohabitation after the lunacy, or was procured by fraud or coercion;

(3) either party was matrimonially incapacitated at the time of marriage and the incapacity has continued; or

(4) either party had not arrived at the age of legal consent to the contract of marriage, unless there has been voluntary cohabitation after coming to legal age, but only on the action of the party not capable of consenting.

#### **§ 16-905. Revocation of decree of divorce from bed and board**

The court may revoke its decree of divorce from bed and board at any time, upon the joint application of the parties to be discharged from the operation of the decree.

#### **§ 16-906. Causes for absolute divorce arising after decree for separation**

Where a divorce from bed and board has been decreed the court may afterwards decree an absolute divorce between the parties for any cause arising since the first decree and sufficient to entitle the complaining party to the second decree.

#### **§ 16-907. Legitimacy of issue of annulled marriage contracted while another in force**

If any marriage is declared by decree to be void because either party has a former wife or husband living, and it appears that the marriage was contracted in good faith by the other party and in ignorance of the obstacle to the marriage, the court shall so find and declare in its decree, and the issue of the marriage shall be deemed to be the legitimate issue of the parent who was capable of contracting.

#### **§ 16-908. Legitimacy of issue of annulled marriage with lunatic**

If a marriage is declared null and void because of the idiocy or lunacy of either party at the time of the marriage the issue of the marriage shall be deemed legitimate.

#### **§ 16-909. Legitimacy of issue of divorced marriage**

A divorce for a cause provided for by this chapter does not affect the legitimacy of the issue of the marriage dissolved by the divorce, but the legitimacy of the issue, if questioned, shall be tried and determined according to the course of the common law.

#### **§ 16-910. Dissolution of property rights; jurisdiction of court**

Upon the entry of a final decree of annulment or absolute divorce, in the absence of a valid antenuptial or postnuptial agreement in relation thereto, all property rights of the parties in joint tenancy or tenancy by the entirety shall stand dissolved and, in the same proceeding in which the decree is entered, the court may award the property to the one lawfully entitled thereto or apportion it in such manner as seems equitable, just, and reasonable.

#### **§ 16-911. Alimony pendente lite; suit money; enforcement; custody of children**

During the pendency of an action for divorce, or an action by the husband to declare the marriage null and void, where the nullity is denied by the wife, the court may:

(1) require the husband to pay alimony to the wife for the maintenance of herself and their minor children committed to her care, and suit money, including counsel fees, to enable her to conduct her case, whether she is the plaintiff or the defendant, and enforce any order relating thereto by attachment and imprisonment for disobedience;



- (2) enjoin any disposition of the husband's property to avoid the collection of the allowances so required;
- (3) if the husband fails or refuses to pay the alimony or suit money, sequester his property and apply the income thereof to such objects; and
- (4) determine who shall have the care and custody of infant children pending the proceedings.

**§ 16-912. Permanent alimony; enforcement; retention of dower**

When a divorce is granted to the wife, the court may decree her permanent alimony sufficient for her support and that of any minor children whom the court assigns to her care, and secure and enforce the payment of the alimony in the manner prescribed by section 16-911, and may, if it seems appropriate, retain to the wife her right of dower in the husband's estate; and the court may, in similar circumstances, retain to the husband his right of dower in the wife's estate.

**§ 16-913. Alimony when divorce is granted on husband's application**

When a divorce is granted on the application of the husband, the court may require him to pay alimony to the wife, if it seems just and proper.

**§ 16-914. Retention of jurisdiction as to alimony and custody of children**

After the issuance of a decree of divorce granting alimony and providing for the care and custody of children, the case shall still be considered open for any future orders relating to those matters.

**§ 16-915. Restoration of wife's maiden or other previous name**

In granting a divorce from the bond of marriage, the court may restore to the wife her maiden or other previous name.

**§ 16-916. Maintenance of wife and minor children; enforcement**

When a husband fails or refuses to maintain his wife and minor children, if any, although able so to do, the court, on application of the wife, pendente lite and permanently, may decree that he shall pay her, periodically, such sums as would be allowed to her as pendente lite or permanent alimony in case of divorce for the maintenance of herself and the minor children, if any, committed to her care by the court. The court may enforce the payment thereof in the same manner as directed in regard to the payment of permanent alimony.

**§ 16-917. Co-respondents as defendants; service of process**

In a divorce case where adultery is charged, the person or persons with whom the adultery is charged to have been committed shall be made defendant or defendants and brought in by personal service of process or by publication as in other cases.

**§ 16-918. Assignment of counsel in uncontested cases; compensation**

In all uncontested divorce cases, and in any other divorce or annulment case where the court deems it necessary or proper, a disinterested attorney shall be assigned by the court to enter his appearance for the defendant and actively defend the cause. The attorney shall receive such compensation for his services as the court determines to be proper, which shall be paid by the parties as the court directs.

**§ 16-919. Proof required on default or admission of defendant**

A decree for a divorce, or a decree annulling a marriage, may not be rendered on default, without proof; and an admission contained in the answer of the defendant may not be taken as proof of the facts

charged as the ground of the application, but shall be proved by other evidence in all cases.

### § 16-920. Effective date of final decree; contents

A final decree annulling or dissolving a marriage is not effective to annul or dissolve the marriage until the expiration of the time allowed for taking an appeal, and until the final disposition of any appeal taken, and every final decree shall expressly so recite. Every decree for absolute divorce shall contain the date thereof and may not be absolute and take effect until the expiration of six months after its date.

### § 16-921. Validity of marriage, action to determine

When the validity of an alleged marriage is denied by either of the parties thereto the other party may institute an action for affirming the marriage, and upon due proof of the validity thereof the court shall decree it to be valid. The decree shall be conclusive upon all parties concerned.

### § 16-922. Validity of marriages and divorces solemnized or pronounced before January 1, 1902

This chapter does not invalidate any marriage solemnized according to law before January 1, 1902, or any decree or judgment of divorce pronounced before that date.

## CHAPTER 11—EJECTMENT AND OTHER REAL PROPERTY ACTIONS

### SUBCHAPTER I—EJECTMENT

Sec.

- 16-1101. Parties defendant; joint tenants and tenants in common.
- 16-1102. Failure of tenant to give notice to landlord.
- 16-1103. Contents of complaint; adverse possession.
- 16-1104. Proof necessary.
- 16-1105. Legal title in mortgagee or trustee; possession.
- 16-1106. Performance of contract by vendee as precluding vendor from recovery.
- 16-1107. Several judgments against defendants occupying distinct parcels.
- 16-1108. Recovery of less than is claimed.
- 16-1109. Recovery of mesne profits and damages; separate count.
- 16-1110. Recovery, by landlord, of furniture, arrears in rent, and damages; separate counts.
- 16-1111. Separate action for rent or damages.
- 16-1112. Expiration of title pending suit; damages.
- 16-1113. Defense of adverse possession; enclosure.
- 16-1114. Verdict; judgment; costs; future actions.
- 16-1115. Conclusiveness of final judgment.
- 16-1116. Improvements; notice; good faith; directions to jury; measure of damages.
- 16-1117. New trial as to assessment.
- 16-1118. Judgment for damages in excess of improvements.
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**SUBCHAPTER II—PROCEEDINGS TO DISCOVER THE DEATH OF A  
TENANT FOR LIFE**

Sec.

- 16-1151. Petition by person entitled to claim; form and contents.
- 16-1152. Order to produce life tenant; service of order.
- 16-1153. Failure to produce as ordered; subsequent proceedings; commissioners; presumption of death; right of possession.
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- 16-1158. Persons holding over after life estate; damages.

**Subchapter I—Ejectment****§ 16-1101. Parties defendant; joint tenants and tenants in common**

(a) A civil action based upon a cause of action in ejectment, may be brought against:

- (1) the person actually occupying the premises claimed, either in person or by tenant; or
- (2) both the claimant and his tenant, or other occupant claiming under him; or
- (3) if the premises are not actually occupied, a person exercising acts of ownership thereon adversely to the plaintiff.

When a lessee is made a defendant at the suit of a party claiming against the title of the lessee's landlord, the landlord may appear and be made a party defendant in the place of his lessee.

Any person claiming to be in possession may, on motion, be admitted to defend the action.

(b) Joint tenants shall sue jointly in ejectment, but tenants in common may sue either jointly or separately, and any number of tenants in common, less than the whole number entitled, may sue jointly in reference to their undivided interests.

**§ 16-1102. Failure of tenant to give notice to landlord**

If a tenant, on whom a complaint in ejectment is served, fails to give notice thereof, without delay, to his landlord or the agent of the landlord, he shall forfeit and pay to the landlord the value of three years' full rent of the premises, to be recovered by a civil action.

**§ 16-1103. Contents of complaint; adverse possession**

In his complaint in ejectment, the plaintiff shall:

- (1) describe the premises claimed with reasonable certainty; and
- (2) set forth distinctly the nature and quantity of the estate claimed by him in the premises.

It is sufficient for the plaintiff to state, in addition, that:

- (1) he was possessed of the premises, and while he was so possessed the defendant entered wrongfully into possession thereof, and withholds the possession of the premises from the plaintiff, or wrongfully detains possession; or
- (2) the defendant is wrongfully exercising acts of ownership over the premises.

However, except as provided by this chapter, acts of ownership do not amount to an adversary possession, so as to make it necessary for the plaintiff to sue in order to avoid the bar of the statute of limitations.

**§ 16-1104. Proof necessary**

(a) Except as provided by subsection (b) of this section, in an action of ejectment it is sufficient to entitle the plaintiff to relief to show that he is entitled, as against the defendant, to the immediate possession of the premises claimed, and that the defendant is:

- (1) in possession of the premises, and is holding adversely to the plaintiff; or
- (2) exercising acts of ownership over the premises, adversely to the plaintiff.

(b) In an action pursuant to this chapter by one or more joint tenants or tenants in common against their cotenants, the plaintiffs shall be required to prove an actual ouster or some other act amounting to a denial of the plaintiff's title and his exclusion from the enjoyment of the property.

**§ 16-1105. Legal title in mortgagee or trustee; possession**

It is not a bar to the plaintiff's recovery in an action of ejectment that the legal title to the property claimed is outstanding in another as mortgagee or trustee under a mortgage or deed of trust to secure a debt, unless the mortgagee or trustee, or those claiming under him, has taken possession of the premises, or unless the defendant claims under the mortgagor or grantor in the deed of trust.

**§ 16-1106. Performance of contract by vendee as precluding vendor from recovery**

Where real property has been sold under a written contract executed by the vendor, and there has been such a performance of its terms by the vendee as would entitle him to a decree for a conveyance of the legal title, without condition, the vendor may not recover the property from the vendee.

**§ 16-1107. Several judgments against defendants occupying distinct parcels**

When it appears on the trial in an action of ejectment that some of the defendants occupy distinct parcels of the property claimed, in severalty, the plaintiff, if entitled to recover, may in the discretion of the court, have several judgments against the respective parties, according to the proof of occupancy.

**§ 16-1108. Recovery of less than is claimed**

The plaintiff, under a claim to certain described premises, may recover less than the whole property claimed, and, under a claim to an entire property, may recover an undivided part thereof.

**§ 16-1109. Recovery of mesne profits and damages; separate count**

(a) The plaintiff may embody in his complaint, in a separate count, a claim for the:

- (1) mesne profits received by the defendant from the property sued for; or
- (2) clear value of the use and occupation of the property sued for—

extending to the time of the verdict, and also damages for waste or injury to the premises during that period.

(b) If the jury find for the plaintiff, they may, at the same time, find and assess the mesne profits, or the value of the use and occupation and the amount of damages, specified by subsection (a) of this section. Except in the case provided for by section 16-1116, there shall be rendered, besides a judgment for the recovery of the property, a judgment against the defendant for the amount so found by the jury.



**§ 16-1110. Recovery, by landlord, of furniture, arrears in rent, and damages; separate counts**

(a) In an action in ejectment against his tenant, a landlord may embody in his complaint, in separate counts, claims for:

- (1) furniture, if leased with the realty;
- (2) arrears of rent due at the termination of the tenancy;
- (3) double rent in cases authorized by this Code from the termination of the tenancy to the verdict for possession; and
- (4) damages for waste or injury to the premises or furniture during the defendant's occupancy of the premises and before commencement of the action.

(b) If the jury find for the landlord, they may, at the same time, find the amounts due for arrears of rent and for double rent and for damages, as provided by subsection (a) of this section, and judgment shall be rendered accordingly.

**§ 16-1111. Separate action for rent or damages**

The plaintiff in ejectment is not required to join his claim for rent or damages with his claim for the recovery of the land and his omission to do so does not prevent him from bringing his action for rent or damages separately.

**§ 16-1112. Expiration of title pending suit; damages**

If the title of the plaintiff in ejectment expires after the commencement of his action but before the trial, and but for the expiration he would have been entitled to recover, the verdict shall find the facts, and the plaintiff may recover his damages sustained by the wrongful withholding of the possession.

**§ 16-1113. Defense of adverse possession; enclosure**

In an action to recover vacant and unimproved lots of ground it is not necessary, in order to maintain the defense of adversary possession, to show that the premises in controversy had been enclosed; but if it appears that the property had been assessed for taxation to the defendant, or those under whom he claims, and that he or they had regularly paid the taxes on the property and were the only persons who had exercised control over the property for a period of fifteen years before the bringing of the action, the facts shall be the equivalent of possession by actual enclosure.

**§ 16-1114. Verdict; judgment; costs; future actions**

(a) In an action of ejectment, if the plaintiff's title is established by proof, the verdict of the jury shall be generally for the plaintiff as to the whole or part of the property or interest claimed in the complaint, as the case may be. If the plaintiff fails to make satisfactory proof of title, the verdict shall be for the defendant as to the whole or part of the property, as the case may be. The verdict may be for the plaintiff as to part and for the defendant as to other part thereof. Except as provided by this chapter, judgment shall be rendered according to the verdict.

(b) When it appears on the trial that the defendant did not wrongfully enter into possession of the property sued for, or exercise acts of ownership over the same adversely to the plaintiff, the verdict of the jury shall be that the defendant is not guilty. Thereupon, judgment shall be rendered in favor of the defendant against the plaintiff for the costs of the action, but the judgment is not a bar to a future action by the plaintiff against the defendant for the recovery of the property.

**§ 16-1115. Conclusiveness of final judgment**

A final judgment rendered in an action of ejectment is conclusive as to the title thereby established as between the parties to the action and all persons claiming under them since the commencement of the action.

**§ 16-1116. Improvements; notice; good faith; directions to jury; measure of damages**

In an action of ejectment, at any time before the trial, the defendant may give notice that if the verdict of the jury is in favor of the plaintiff's title the defendant will claim the benefit of permanent improvements that may have been placed on the property by the defendant or those under whom he claims, and offer evidence at the trial tending to show that he or those under whom he claims had peaceably entered into possession of the premises in controversy under a title which he or they had reason to believe and did believe to be good, and had erected valuable and permanent improvements on the property, which were begun in good faith before the commencement of the action. The court shall then direct the jury, in case they find in favor of the plaintiff's title and also find that the permanent improvements were made by the defendant, or those under whom he claims, under the circumstances described in this section, to assess the:

(1) damages of the plaintiff, being the clear value over and above taxes and necessary expenses of the use and occupation of the property, exclusive of the improvements, during the whole period of the occupation of the property to the date of the verdict, and any damage done to the property, by waste or otherwise, by the parties during the occupation;

(2) present value of any permanent improvements that may have been placed on the premises by the defendant or those under whom he claims;

(3) present value of the property of the plaintiff without and exclusive of the improvements.

**§ 16-1117. New trial as to assessment**

Either party who feels aggrieved by the assessment provided for by section 16-1116, may, within four days after the verdict, move to set the assessment aside, and the court may, for good cause shown, set the verdict aside and order another jury to be empaneled in the cause to make a new assessment.

**§ 16-1118. Judgment for damages in excess of improvements**

When the damages of the plaintiff, assessed as provided by section 16-1116, exceed the value of the permanent improvements as ascertained by the jury, the plaintiff shall be entitled to a judgment for the excess in like manner as directed by section 16-1109.

**§ 16-1119. Judgment when improvements and damages are equal**

When the value of the improvements, ascertained as provided by this chapter, equal but do not exceed the plaintiff's damages, as found by the jury, the plaintiff shall be entitled to judgment only for the recovery of the property sued for and costs.

**§ 16-1120. Election of plaintiff if value of improvements exceeds damages**

If the value of the improvements referred to in this chapter is found by the jury to exceed the damages of the plaintiff, the plaintiff may elect either to pay to the defendant the amount of the excess or to demand of the defendant the value of the plaintiff's property, without the improvements, as fixed by the jury, and tender to the defendant a deed for the property, with all the plaintiff's right, title, and interest therein.

**§ 16-1121. Judgment and writ of possession after payment for improvements**

When the plaintiff pays to the defendant, within the time fixed therefor by the court, or, in case of the defendant's refusal to accept the payment, pays into court for the defendant's use the amount of the excess of the value of the improvements over the damages of the plaintiff, the plaintiff shall be entitled forthwith to a judgment and writ of possession.

**§ 16-1122. Judgment and writ of possession after tender of deed and defendant's refusal to pay**

If the plaintiff tenders to the defendant a deed as provided by section 16-1120 and demands the value of his property without the improvements, as found by the jury, and the defendant fails or refuses to pay the value within the time fixed therefor by the court, the plaintiff shall, in like manner, be entitled to a judgment and writ of possession; and if the plaintiff is a minor, the court may authorize the deed to be executed by his guardian.

**§ 16-1123. Judgment for defendant after plaintiff's refusal to pay excess or tender deed**

If the plaintiff fails or refuses either to pay the defendant the excess of the value of the improvements over the amount of the plaintiff's damages, or, as provided by the chapter, to tender a deed to the defendant and accept from him the value of the plaintiff's property, exclusive of the improvements, the defendant may pay the value into court for the use of the plaintiff. Thereupon, the defendant shall be entitled to a judgment in his favor, but without costs, which judgment shall be a bar to any future action by the plaintiff against the defendant to recover the property for cause theretofore existing.

**§ 16-1124. Ejectment for non-payment of rent; time limitation on relief from judgment; set-off; dismissal upon payment**

(a) In a case between landlord and tenant, where one-half year's rent or more is in arrear and unpaid, and the landlord or lessor to whom the rent is due has the right by law, in default of a sufficiency of goods and chattels whereon to distrain for the satisfaction of the rent due, to re-enter for non-payment of the rent, he may, without any formal demand or re-entry, commence a civil action in ejectment for the recovery of the demised premises.

(b) When a judgment is given for the plaintiff in an action pursuant to this section, and execution is had on the judgment, before the rent in arrear and costs of suit are paid, the lease of the property shall cease and be determined, unless the judgment is reversed on appeal or certiorari or, within six months after execution on the judgment, the defendant or a person who has succeeded to his interest, or a mortgagee of the lease or of any part thereof who was not in possession when final judgment was rendered, applies to the court for an order granting equitable relief from the judgment, which is subsequently granted.

(c) When possession of the property recovered has been delivered to the plaintiff under execution issued upon a judgment in an action pursuant to this section, and, in connection with the application for equitable relief from the judgment, the defendant or other person referred to in subsection (b) of this section, has, prior to or at the time of his application, paid or tendered to the plaintiff or his legal representative or successor in interest, or paid into court for the use of the person entitled thereto, the amount of rent in arrear, as stated in the judgment and costs of suit and all damages sustained by the plaintiff, the order

for restoration of possession of the property to the person who made the payment shall provide for setting off the sum that the plaintiff has made, or that he might, without fraud, deceit, or willful neglect, have made, of the property, during his possession, against the rent accruing after the judgment was rendered, and for reimbursement to the applicant of the balance, if any, of the sum paid into court by him, after making the set-off prescribed by this subsection.

(d) At any time before the trial of an action pursuant to this section, the defendant may pay or tender to the plaintiff, or pay into court, the amount of all the rent then in arrear, and costs of suit. Thereupon, the action shall be dismissed.

## **Subchapter II—Proceedings To Discover the Death of a Tenant for Life**

### **§ 16-1151. Petition by person entitled to claim; form and contents**

(a) A person entitled to claim real property, after the death of another person who has a prior estate therein, may, not oftener than once a year, petition the court for an order directing the production of the tenant for life, as prescribed by this subchapter, by a person, named in the petition, against whom a civil action in ejectment to recover the real property can be maintained if the tenant for life is dead, or, if there is no such person, by the guardian, trustee, or other person who has, or is entitled to, the custody of the person of the tenant for life, or the care of his estate.

(b) A petition prescribed by subsection (a) of this section shall be verified by the affidavit of the petitioner, and shall contain an averment that the petitioner has cause to believe that the person, upon whose life the prior estate depends, is dead, and that his or her death is being concealed by the person named in the petition.

### **§ 16-1152. Order to produce life tenant; service of order**

Upon the presentation of the petition and affidavit prescribed by section 16-1151, the court shall issue an order to the person named in the petition to produce and show to the persons named in the order by the petitioner, not exceeding two in number, at such time and place as the court directs, the person upon whose life the prior estate depends. A certified copy of the order shall be served upon the person required to produce the tenant for life in the manner provided by applicable rules of court.

### **§ 16-1153. Failure to produce as ordered; subsequent proceedings; commissioners; presumption of death; right of possession**

(a) If a person upon whom an order, as prescribed by section 16-1152, is served, refuses or neglects to produce the person upon whose life the prior estate depends in the manner provided by the order, the court shall order him to produce the person in court or before commissioners appointed by the court, at such time and place as the court directs. Two of the commissioners shall be nominated by the petitioner, and they shall serve at his expense. A certified copy of the order shall be served upon the person required to produce the tenant for life in the manner provided by applicable rules of court. The commissioners appointed shall make and file with the court a return showing the results of their investigation and their conclusions.

(b) If the person upon whom the second order prescribed by subsection (a) of this section is served refuses or neglects to produce, in court, or before the commissioners, as the case may be, the person



upon whose life the prior estate depends, it shall be presumed that the latter person is dead, and the court shall issue an order permitting the petitioner to take possession of the property, as if that person were actually dead.

**§ 16-1154. Investigation outside the District; report to court; presumption of death; right to possession**

If before, or at the time of, the presentation of the commissioners' return provided for by section 16-1153, or, where commissioners are not appointed, at any time before a final order is made, the party upon whom the first or second order is served presents to the court presumptive proof, by affidavit, that the person, whose death was in question, is, or lately was, at a place certain, without the District of Columbia, the petitioner, at his own expense, may send one or both of the persons named in the first order to view him. If the person concealing or suspected of concealing the person upon whose life the prior estate depends, or the fact of his death, refuses or neglects to produce him or to procure him to be produced to the personal view of the persons sent for that purpose, the persons sent to view him shall make a true return of the refusal or neglect to the court, and the return shall be filed in the court. Thereupon, it shall be presumed that the tenant for life is dead, and the court shall issue an order permitting the petitioner to take possession of the real property, as if that person were actually dead.

**§ 16-1155. Restoration of property to life tenant**

The possession of real property that has been awarded to a petitioner pursuant to this subchapter, upon the presumption of the death of the person upon whose life the prior estate depends, shall be restored, by an order of the court, to the person evicted, or to his heirs, or legal representatives, upon the petition of the latter, and proof, to the satisfaction of the court, that the person presumed to be dead is living. The proceedings upon such a petition are the same as those prescribed by this subchapter to be followed upon the petition of the person to whom possession is awarded.

**§ 16-1156. Recovery of profits by person evicted**

A person evicted, as prescribed by this subchapter, may, when the presumption upon which he is evicted is erroneous, maintain a civil action against the person who has occupied the property, or his executor or administrator, to recover the full profits of the property during the occupation, while the person, upon whose life the prior estate depends, is or was living.

**§ 16-1157. Preservation of life tenants' rights if living at time of return**

When a guardian, trustee, or other person holding an estate or interest determinable upon the life of another person, shows by affidavit or otherwise, to the satisfaction of the court, that:

- (1) he has used his utmost efforts to procure the tenant for life to appear in the court or elsewhere, according to the order of the court;
- (2) he can not procure or compel him so to appear; and
- (3) the tenant for life is or was living at the time of the return made and filed, as prescribed by this subchapter—

he may continue in the possession of the estate, and receive the rents and profits for and during the infancy of the infant, or for and during the life of any other person on whose life the estate or interest depends.

**§ 16-1158. Persons holding over after life estate; damages**

A guardian or trustee for an infant, or other person having an estate determinable upon life or lives, who, after the determination of the particular estate or interest, without the express consent of the person or persons who is or are next and immediately entitled thereto, holds over and continues in possession of the real property, is a trespasser. Any person entitled to the real property upon or after the determination of the particular estate or interest, or his executor or administrator, may recover in damages against the person so holding over, or his executor or administrator, the full value of the profits received during the wrongful possession.

**CHAPTER 13—EMINENT DOMAIN****SUBCHAPTER I—GENERAL PROVISIONS****Sec.**

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**SUBCHAPTER IV—REAL PROPERTY FOR UNITED STATES**

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16-1361. Verdict.

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16-1363. Judgment.

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16-1365. Appeal; deficiency judgment.

16-1366. Payment of compensation into court; vesting of title.

16-1367. Delivery of possession.

16-1368. Additional powers of court.

### Subchapter I—General Provisions

#### § 16-1301. Jurisdiction of District Court

The United States District Court for the District of Columbia has jurisdiction of all proceedings for the condemnation of real property authorized by this chapter, with full power to hear and determine all issues of law and fact that may arise in the proceedings.

#### § 16-1302. Assignment of judge for condemnation cases

The chief judge of the United States District Court for the District of Columbia shall assign from time to time, and for such periods as he determines, one of the judges of the court to hear cases involving the condemnation of real property in the District of Columbia. In case of the disability of the judge so assigned, or for any other reason, the chief judge may assign any judge of the Court for service in condemnation cases.

### Subchapter II—Real Property for District of Columbia

#### § 16-1311. Condemnation proceedings by Board of Commissioners

When real property in the District of Columbia is needed by the Board of Commissioners of the District for sites of schoolhouses, fire or police stations, or for a right of way for sewers, or for any other municipal use authorized by Congress, and it can not be acquired by purchase from the owners thereof at a price satisfactory to the officers of the District authorized to negotiate for the property, a complaint may be filed in the United States District Court for the District of Columbia in the name of the Board for the condemnation of the property or right of way and the ascertainment of its value.

#### § 16-1312. Jury; special list; qualifications; procedure for drawing

(a) For the purposes of this subchapter, the jury commission shall:

(1) prepare a special list of persons who have the qualifications of jurors, as prescribed by section 11-2301, and who, in addition, are owners of real property in the District;

(2) from time to time, as may be necessary, write the names contained in the special list on separate and similar pieces of paper, which shall be so folded or rolled that the names can not be seen, and place them in a special box to be provided for the purpose:

(3) thereupon, seal and lock the special box, and, after thoroughly shaking the box, deliver it to the clerk of the United States District Court for the District of Columbia for safekeeping.

The box may not be unsealed or opened except by the jury commission.

(b) From time to time, as ordered by the court, the jury commission shall publicly break the seal of the box provided for by subsection (a) of this section, and proceed to draw therefrom by lot, without previous examination, the names of such number of persons as the court directs, to serve in condemnation proceedings brought pursuant to section 16-1311, and certify the names so drawn to the clerk of the court. At the time of each drawing, there shall be in the box the names of not less than one hundred persons possessing the qualifications prescribed by subsection (a) of this section.

(c) Except as provided by this section, chapter 23 of Title 11, in so far as it may be applicable, governs the qualifications of jurors in cases under section 16-1311 and the duties and conduct of the jury commissioners under this section.

(d) A person who has so served within one year may not serve as a condemnation juror under this section.

**§ 16-1313. Selection of jury; oath of jurors**

In each action brought pursuant to this subchapter, the court shall appoint, from among the persons whose names are drawn pursuant to section 16-1312, a jury of five capable and disinterested persons, and shall administer to the persons so drawn an oath or affirmation that they:

- (1) are not interested in any manner in the real property to be condemned;
- (2) are not related to the parties interested in the property; and
- (3) without favor or partiality, and to the best of their judgment, will appraise the value of the respective interests of all persons concerned in the property.

**§ 16-1314. Declaration of taking; contents; deposit; transfer of title; determination; interest**

(a) In an action pursuant to this subchapter, the plaintiffs may file in a cause, with the complaint or at any time before judgment, a declaration of taking, signed by the members of the Board of Commissioners, declaring that the property is thereby taken for use of the District of Columbia. The declaration of taking shall contain or have annexed thereto a—

- (1) statement of the authority under which and the public use for which the property is taken;
- (2) description of the property taken sufficient for the identification thereof;
- (3) statement of the estate or interest in the property taken for public use;
- (4) plan showing the property taken; and
- (5) statement of the sum of money estimated by the Commissioners to be just compensation for the property taken.

(b) Notwithstanding section 16-1319, upon the filing of the declaration of taking and the deposit in the registry of the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in the declaration, title to the property in fee simple absolute, or such less estate or interest therein as is specified in the declaration, shall vest in the District of Columbia, and the property shall be deemed to be condemned and taken for the use of the District, and the right to just compensation therefor shall vest in the persons entitled thereto. The compensation shall be ascertained and awarded in the proceedings and established by judgment therein, and the judgment shall include, as part of the just compensation awarded, interest at the rate of 6 per centum per annum on the amount finally awarded as the value of the property as of the date of taking, from that date to the date of payment. Interest may not be allowed on as much thereof as has been paid into the registry. A sum so paid into the registry may not be charged with commissions or poundage.

**§ 16-1315. Distribution of money deposited on declaration of taking; judgment for deficiency or overpayment; execution**

After the filing of the declaration of taking, and the deposit of the money in the registry of the court, as provided for by section 16-1314, the court, upon the application of the parties in interest, may order that the money so deposited, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in the proceeding. Upon the final award of compensation, the court shall enter



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judgment for the amount of any deficiency or overpayment in the manner provided by subdivision (j) of rule 71A of the Federal Rules of Civil Procedure. A writ of execution may be issued on the judgment within the same time, and it shall have the same effect as a lien, and shall be executed and returned in the same manner, as if issued on any other judgment.

**§ 16-1316. Time for surrender of possession under declaration of taking; adjustment of charges**

Upon the filing of the declaration of taking provided for by 16-1314, the court may fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the plaintiffs. The court may make such orders in respect of incumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as it deems just and equitable.

**§ 16-1317. Objections to jurors; appraisement**

The court, before accepting the jury in a condemnation proceeding pursuant to this subchapter, shall hear any objections that may be made to any member thereof, and may pass upon any objection, and may excuse any juror or cause any vacancy in the jury, when empaneled, to be filled. After the jury is organized and have viewed and examined the land and premises affected by the condemnation proceeding, they shall proceed, in the presence of the court, to hear and receive any evidence offered or submitted on behalf of the District of Columbia and by any person having an interest in the proceeding. When the hearing is concluded, the jury, or a majority of them, shall return to the court, in writing, their appraisement of the value of the interests of all persons, respectively, in the real property, where the appraisement shall be recorded. In making their decision, the jury shall take into consideration, when a part only is taken, the benefit to the remainder of the tract, and shall give their appraisement accordingly.

**§ 16-1318. Objections or exceptions to appraisement; new jury**

(a) Objections or exceptions to an appraisement of the jury pursuant to section 16-1317 may be filed within twenty days after the return of the appraisement to the court. The court shall hear and determine any objections or exceptions so filed, and may vacate and set aside the appraisement, in whole or in part, when satisfied that it is unjust or unreasonable. If the appraisement is vacated and set aside, the court shall order the jury commission to draw from the special box the names of as many persons as the court directs, and, from among the persons so drawn, shall thereupon appoint a new jury of five capable and disinterested persons, who shall proceed as in the case of the first jury. The appraisement of the new jury shall be final when confirmed by the court.

(b) When an appraisement is vacated in part, the residue thereof as to the property condemned is not affected thereby.

**§ 16-1319. Payment of award; transfer of title**

If the appraisement of the jury pursuant to section 16-1317 is not objected to by the parties interested, it shall be confirmed by the court, or, if the appraisement of the new jury is confirmed by the court, the Board of Commissioners shall pay the amount awarded by the jury out of the appropriation made therefor or deposit it in the manner as directed by section 7-215, and thereupon the title to the property condemned shall vest in the District of Columbia.

Stat. 582.

**§ 16-1320. Fixing time for return of verdict**

In every case involving the condemnation of real property under this subchapter, at the close of the hearing thereof, the court shall fix a time in which the jury shall return its verdict or the report to the court the reasons why the verdict or appraisal can not be returned by the time fixed. The court has discretion to extend the time for the return of the verdict or appraisal.

**§ 16-1321. Abandonment of proceedings; liability**

In a condemnation proceeding pursuant to this subchapter, it is optional with the Board of Commissioners to abide by the verdict of the jury and occupy the property appraised by them, or, within a reasonable time to be fixed by the court in its order confirming the verdict, to abandon the proceeding. If the proceeding is abandoned, the court shall award to the owner or owners of the property involved therein such sum or sums as will in the opinion of the court reimburse the owner or owners for all reasonable costs and expenses, including reasonable counsel fees, incurred by him or them in the proceeding. The sum or sums so awarded constitute a judgment or judgments against the District of Columbia. An owner is not entitled to the reimbursement in any case where the proceeding is abandoned at the request, or with the consent, of the owner of the property.

**Subchapter III—Excess Property for Development of Seat of Government****§ 16-1331. Acquisition of property in excess of needs**

In order to promote the orderly and proper development of the seat of government of the United States, the Board of Commissioners of the District of Columbia, and agencies of the United States authorized by law to acquire real property, may acquire, in the public interest, by gift, dedication, exchange, purchase, or condemnation, fee simple title to land, or rights in or on land or easements or restrictions therein, within the District, for public uses, works, and improvements authorized by Congress, in excess of that actually needed for and essential to their usefulness, in order to preserve the view, appearance, light, and air and to enhance their usefulness to prevent the use of private property adjacent to them in such a manner as to impair the public benefit derived from the construction thereof, or to prevent inequities or hardship to the owners of adjacent private property by depriving them of the beneficial use of their property.

**§ 16-1332. Sale of excess property; restrictions on use; fair market value; disposition of moneys**

(a) The Board of Commissioners of the District of Columbia and agencies of the United States authorized by law to acquire real property may, upon completion of public improvements:

(1) subdivide, and sell, at public or private sale, or exchange, any excess real property acquired pursuant to this subchapter; and

(2) to carry out such purposes, convey any property acquired in excess of that actually needed and which is not essential to the usefulness of the public works—

with such reservations concerning the future use and occupation of the property as, in their discretion, may be necessary to protect the public improvements.

(b) Property sold under this section shall be sold at not less than the fair market value at the time sold, as determined by appraisal of the assessor of the District of Columbia.

(c) Moneys received from sales or transfers of properties pursuant to this subchapter shall be covered into the Treasury of the United States, and where the property sold was acquired under an appropriation authorized for the use of the District of Columbia, moneys received from the sale shall be deposited in the Treasury to the credit of the revenues of the District of Columbia.

**§ 16-1333. Notice of sale of excess property**

When excess real property is to be sold pursuant to section 16-1332, notice of not less than twenty days before the sale shall be published in a daily newspaper published in the District of Columbia, and notice shall be sent before the sale, by registered mail or by certified mail, to the last-known address of the persons listed on the records of the assessor of the District as the owners of the property abutting on the property to be sold.

**§ 16-1334. Retention, for public use, of excess property**

When the authorities of the District of Columbia or the United States having jurisdiction of real property, rights, or easements acquired pursuant to this subchapter, elect to retain any of them for the use of the District or the United States, they may use the property, rights or easements for park, playground, highway, or alley purposes, or for any other lawful purpose that they deem advantageous or in the public interest.

**§ 16-1335. Availability of appropriations for purchase of excess property**

When real property is purchased pursuant to this subchapter in excess of that needed for a particular project or improvement, appropriations available for the payment of the purchase price, costs, and expenses incident to the project or improvement may be used in the payment of the purchase price, costs, and expenses of excess real property purchased in connection with the project or improvement, as provided by this subchapter.

**§ 16-1336. Condemnation of excess real property by Board of Commissioners; payment of awards, damages, and costs; no assessments for benefits**

(a) When, pursuant to this subchapter, excess real property is condemned by the Board of Commissioners, the condemnation proceedings for the acquisition of the property shall be in accordance with subchapter I of this chapter, sections 7-202 to 7-212, 7-213a, 7-214, 7-215, or sections 7-301 to 7-305, 7-313 to 7-318, 7-320, 7-321 and 7-323.

(b) Appropriations available for the payment of awards, damages, and condemnation proceedings pursuant to subchapter I of this chapter may be used in the payment of awards, damages, and costs in condemnation proceedings under the sections referred to by subsection (a) of this section for the acquisition of excess real property, as provided by this subchapter.

(c) Appropriations available for the payment of awards, damages, and costs in condemnation proceedings pursuant to subchapter I of this chapter or sections 7-301 to 7-305, 7-313 to 7-318, 7-320, 7-321 and 7-323 may be used in the payment of awards, damages, and costs in condemnation proceedings thereunder for the acquisition of excess real property as provided by this subchapter.

(d) In all cases where excess real property is condemned, assessments for benefits may not be levied by the jury in respect to the acquisition of the property.

**§ 16-1337. Condemnation of excess real property by United States agencies; payment of awards, damages, and costs**

When excess real property is condemned by agencies of the United States, other than the Board of Commissioners of the District of Columbia, as provided by this subchapter, the condemnation proceedings for the acquisition of the property shall be in accordance with subchapter IV of this chapter, or any laws in effect at the time of the commencement of condemnation proceedings for the acquisition of real property in the District of Columbia for the use of the United States.

Appropriations available for the condemnation of property pursuant to subchapter IV of this chapter may be used in the payment of awards, damages, and costs in condemnation proceedings pursuant to that subchapter for the acquisition of excess real property as provided by this subchapter.

**§ 16-1338. Construction of subchapter**

This subchapter does not repeal any provisions of existing law pertaining to the condemnation or acquisition of streets, alleys, or land, or the law or laws relating to the subdividing of lands in the District of Columbia.

**Subchapter IV—Real Property for United States**

**§ 16-1351. Definition**

As used in this subchapter, "acquiring authority" means the head of an executive department or agency of the United States, or other officer of the United States, or board or commission of the United States, authorized by law to acquire real property in the District of Columbia for the construction of public building or work, or for parks, parkways, public playgrounds, or other public purpose.

**§ 16-1352. Condemnation proceedings by Attorney General**

When, for the purposes specified by section 16-1351, it is deemed necessary or advantageous to do so, the acquiring authority may acquire real property in the District of Columbia in the name of the United States by condemnation under judicial process. The Attorney General of the United States, upon the request of the acquiring authority, shall institute a proceeding for the condemnation of the property in the United States District Court for the District of Columbia.

**§ 16-1353. Declaration of taking; contents; deposit; transfer of title; determination; interest**

(a) In an action pursuant to this subchapter, the plaintiff may file in the cause, with the complaint or at any time before judgment, a declaration of taking signed by the acquiring authority empowered by law to acquire the property described in the complaint, declaring that the property is thereby taken for the use of the United States. The declaration of taking shall contain or have annexed thereto a—

- (1) statement of the authority under which and the public use for which the lands are taken;
- (2) description of the lands taken sufficient for the identification thereof;
- (3) statement of the estate or interest in the lands taken for public use;
- (4) plan showing the lands taken; and
- (5) statement of the sum of money estimated by the acquiring authority to be just compensation for the property taken.



Upon the filing of the declaration of taking and of the deposit in the registry of the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in the declaration, title to the property in fee simple absolute, or such less estate or interest therein as is specified in the declaration, vests in the United States of America, and the property shall be deemed to be condemned and taken for the use of the United States, and the right to just compensation therefor vests in the persons entitled thereto. The compensation shall be ascertained and awarded in the proceedings and established by judgment therein, and the judgment shall include, as part of the just compensation awarded, interest at the rate of 6 per centum per annum on the amount finally awarded as the value of the property as of the date of taking, from that date to the date of payment. Interest may not be allowed on as much thereof as has been paid into the registry. A sum so paid into the registry may not be charged with commissions or poundage.

**§ 16-1354. Distribution of money deposited on declaration of taking; judgment for deficiency**

After the filing of the declaration of taking, and the deposit of the money in the registry of the court, as provided for by section 16-1353, the court, upon the application of the parties in interest, may order that the money so deposited, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in the proceeding. Upon the final award of compensation, the court shall enter judgment for the amount of any deficiency in the manner provided by rule 71A(j) of the Federal Rules of Civil Procedure.

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**§ 16-1355. Time for surrender of possession under declaration of taking; adjustment of charges**

Upon the filing of a declaration of taking provided for by section 16-1353, the court may fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the plaintiff. The court may make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as it deems just and equitable.

**§ 16-1356. Setting date for trial**

In a proceeding pursuant to this subchapter, after all defendants have been served with notice, and there has been return of service, as provided by rule 71A (d) of the Federal Rules of Civil Procedure, and after defendants have appeared or answered in the manner provided by rule 71A (e) thereof, either personally or by their guardians ad litem or other legal representatives, or are in default, the case shall be regarded as ready for trial, and, upon the application of any party to the proceeding, the court shall forthwith set an early date to be fixed by it, not less than ten nor more than twenty days from the date of the application, for the trial of the issues of law and fact raised in the case, and the ascertainment of the compensation or damages to be awarded for the taking of the property to be condemned.

**§ 16-1357. Drawing of jurors, and selection of jury; qualifications**

When the date for trial has been set, as provided by section 16-1356, the court shall thereupon order the jury commission to draw from the special box provided for by law the names of as many persons, not less than twenty, as the court directs, and to certify the names to the clerk of the United States District Court for the District of Columbia as a panel of prospective jurors. The persons so certified shall be thereupon summoned by the United States marshal for the District of Columbia to appear in the court on the day specially fixed for the trial of the cause. Before selecting or impaneling the jury, the court

may cause a second, third, or other further list of prospective jurors to be drawn, certified and summoned in like manner. From the persons so certified and summoned, the court, after examination on oath and in open court as to their qualifications, shall select and impanel a jury of five capable and disinterested persons who have the qualifications of jurors as prescribed by law for the courts of the District of Columbia, and in addition thereto are real property owners in the District and are not in the service or employment of the United States or of the District of Columbia.

#### **§ 16-1358. Oath of jurors**

The jurors selected and impaneled, as provided by section 16-1357, shall take an oath or affirmation, administered by the court, that they:

- (1) are not interested in any manner in the property to be condemned;
- (2) are not, to their knowledge, related to any person interested in the property; and
- (3) will, impartially and to the best of their judgment, ascertain, appraise, and award just compensation for the property to be condemned and taken in the proceeding.

#### **§ 16-1359. Inspection of property by jury; presence of parties**

After being selected, impaneled, and sworn, as provided by sections 16-1357 and 16-1358, and before hearing the evidence, the jury, in order to inspect the property to be acquired, shall be taken upon the property by the United States marshal at a time fixed by the court. All parties in interest, their attorneys, and representatives have the right to be present at the inspection.

#### **§ 16-1360. Trial; evidence; measure of compensation**

After the inspection provided for by section 16-1359, and the jury has returned to the court, the trial of the cause shall be proceeded with before the court and jury. Any person who has appeared in the cause claiming any right, title, interest, or estate in the land to be taken, or compensation on account of its taking, has the right to submit evidence concerning the value of the property, parcel by parcel, the nature and extent of his right, interest, or estate therein, and the compensation justly due for the taking of the property. A new structure or substantial alteration of a permanent nature, the purpose or natural effect of which is to enhance the value of the property to be taken, erected, or made thereon after the institution of the condemnation proceedings may not be taken into consideration in assessing and awarding compensation for the property. When the property to be valued has been taken by virtue of a declaration of taking, as provided by section 16-1353, it shall be valued for the purposes of compensation as of the date of the taking. When, by act of the owner or other party claiming to be entitled to compensation, the value of the property for the use for which it is to be taken has been diminished, as by cutting trees, excavating, grading, or otherwise altering its physical condition, allowance, if the plaintiff so elects, shall be made in accessing compensation for the diminution in value.

#### **§ 16-1361. Verdict**

At the close of the evidence in a proceeding pursuant to this subchapter, the court shall charge the jury and furnish them with a written form to be used in returning their verdict. The members of the jury may separate when not engaged in the consideration of their verdict. When the jury, or a majority thereof, have agreed upon their verdict they shall, through their foreman, so notify the court, which shall thereupon pass an order setting a day for the return of the verdict in open court. The verdict shall be in writing subscribed by the jurors concurring therein, and shall set forth, parcel by parcel, the compensation to be paid for the taking of the lands to be condemned.

**§ 16-1362. Fixing date for new trial; new jurors**

If a verdict rendered pursuant to section 16-1361, or any award contained therein, is set aside or vacated, the court shall—

- (1) grant a new trial with respect to the property as to which the verdict or award is set aside or vacated;
- (2) fix a date for the new trial; and
- (3) order a new panel of prospective jurors to be drawn, certified, or summoned as provided by section 16-1357.

The court shall then proceed with the cause as if a verdict or award had not been rendered.

**§ 16-1363. Judgment**

Judgment upon a verdict returned pursuant to section 16-1361 or any award contained therein shall be entered against the United States in favor of the parties entitled for the sums awarded as just compensation, respectively, for the property condemned for the use of the United States.

**§ 16-1364. Force and effect of judgment; payment**

A final judgment rendered against the United States pursuant to this subchapter has like force and effect as a money judgment rendered against the United States by the Court of Claims in a suit in respect of which the United States has expressly consented to be sued. The amount of the final judgment shall be paid out of any specific appropriation applicable to the case. If a specific appropriation does not exist, the judgment shall be paid in the same manner (except with respect to interest) as judgments rendered by the Court of Claims in cases under its general jurisdiction.

**§ 16-1365. Appeal; deficiency judgment**

A party aggrieved by a final judgment in a proceeding pursuant to this subchapter may appeal therefrom to the United States Court of Appeals for the District of Columbia Circuit. The appeal, or any bond or undertaking given therein, does not operate to prevent or delay the vesting of title to the property in the United States, but upon the filing of a declaration of taking, or, if a declaration of taking is not filed, upon payment to the party entitled, or deposit in the registry of the court, of the amount awarded by the judgment, title vests in the United States, saving to all parties their right to just compensation. If the compensation finally awarded and adjudged for the property exceeds the amount awarded and adjudged by the judgment appealed from, the court shall enter judgment for the deficiency with interest as provided by this subchapter.

**§ 16-1366. Payment of compensation into court; vesting of title**

Payment into the registry of the court for the use of the parties entitled of the sum adjudged to be just compensation for the property to be condemned and taken, or for any parcel thereof, or any interest therein, pursuant to this subchapter, constitutes payment of the compensation. Upon the payment, the plaintiff is entitled to an order declaring that the title to the property in respect of which the compensation is so paid is vested in the United States of America. The money so paid into the registry of the court shall be deemed to be vested in the persons owning or interested in the property, according to their respective estates and interest, and the money shall take the place and stand in lieu of the property condemned. The court, upon the application of the plaintiff or of any party in interest, may determine and direct who is entitled to receive payment of the money so paid into the registry, and, in its discretion, order a reference to the auditor of the court or a special master to ascertain the facts on which the determination and direction are to be made.

**§ 16-1367. Delivery of possession**

Where possession has not been awarded pursuant to a declaration of taking, and the adjudged compensation has been paid into the registry as directed by the judgment of the court and a certified copy of the judgment, with a certificate of the clerk of the court showing the payment, has been served upon the person in possession of the property, he shall, upon demand, deliver possession thereof to the plaintiff. If possession is not delivered when so demanded, the plaintiff may apply to the court without notice, unless the court requires notice to be given, for a writ of assistance, and the court, upon proof of the service of the copy of the final order or judgment and certificate of the clerk showing payment as referred to in this section, shall thereupon cause the writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

**§ 16-1368. Additional powers of court**

Where the mode or manner of conducting a proceeding pursuant to this subchapter is not expressly provided for by law or rules of court in force under authority of law, the court may make all necessary orders and give all necessary directions to carry into effect the object and intent of this subchapter or any other laws conferring authority to acquire real property for the use of the United States.

**CHAPTER 15—FORCIBLE ENTRY AND DETAINER**

Sec.

16-1501. Definition; summons.

16-1502. Service of summons.

16-1503. Judgment and execution for possession.

16-1504. Certification to District Court upon plea of title; undertaking.

16-1505. Conclusiveness of judgment.

**§ 16-1501. Definition; summons**

When a person detains possession of real property without right, or after his right to possession has ceased, the District of Columbia Court of General Sessions, on complaint under oath verified by the person aggrieved by the detention, or by his agent or attorney having knowledge of the facts, may issue a summons to the party complained of to appear and show cause why judgment should not be given against him for the restitution of possession.

**§ 16-1502. Service of summons**

The summons provided for by section 16-1501 shall be served seven days, exclusive of Sundays and legal holidays, before the day fixed for the trial of the action. If the defendant has left the District of Columbia, or cannot be found, the summons may be served by delivering a copy thereof to the tenant, or by leaving a copy with some person above the age of sixteen years residing on or in possession of the premises sought to be recovered, and if no one is in actual possession of the premises, or residing thereon, by posting a copy of the summons on the premises where it may be conveniently read.

**§ 16-1503. Judgment and execution for possession**

When, upon a trial in a proceeding pursuant to this chapter, it appears that the plaintiff is entitled to the possession of the premises, judgment and execution for the possession shall be awarded in his favor, with costs; and if the plaintiff becomes nonsuit or fails to prove his right to the possession, the defendant shall have judgment and execution for his costs.



**§ 16-1504. Certification to District Court upon plea of title; undertaking**

When, upon a trial in a proceeding pursuant to this chapter, the defendant pleads title to the premises, in himself or in another under whom he claims, setting forth the nature of the title, under oath, and enters into an undertaking, with sufficient surety, to be approved by the court, to pay all intervening damages and costs and reasonable intervening rent for the premises, the court shall certify the proceedings to the United States District Court for the District of Columbia, and the proceeding shall be further continued in the District Court according to its rules.

**§ 16-1505. Conclusiveness of judgment**

A judgment of the District of Columbia Court of General Sessions in a proceeding pursuant to this chapter is not a bar to any after-action brought by either party, and does not conclude any question of title between them, where title is not pleaded by the defendants.

**CHAPTER 17—GAMING TRANSACTIONS****Sec.**

16-1701. Invalidity of gaming contracts.

16-1702. Recovery of losses at gaming.

16-1703. Relief from further penalty upon discovery and repayment of losses.

16-1704. Cheating at gambling.

**§ 16-1701. Invalidity of gaming contracts**

(a) A thing in action, judgment, mortgage, or other security or conveyance made and executed by a person in which any part of the consideration is for money or other valuable thing won by playing at any game whatsoever, or by betting on the sides or hands of persons who play, or for the reimbursement or payment of any money knowingly lent or advanced for the purpose, or lent or advanced at the time and place of the play or bet, to a person so playing or betting or who, during the play, so plays or bets, is void except as provided by subsection (b) of this section.

(b) If the mortgage, security, or other conveyance affects real property, it shall inure to the sole benefit of, and devolve upon, the persons who might have, or be entitled to, the property, as if the person who executed the instrument had died immediately after its execution, or as if the instrument had been made to the persons so entitled after the death of the person who executed it. A grant or conveyance made for the purpose of preventing the real property from coming to, or devolving upon, the persons intended by this section to enjoy the property as herein provided is fraudulent and void.

(c) This section does not affect the validity of negotiable instruments embraced by chapters 1 to 10 of Title 28.

**§ 16-1702. Recovery of losses at gaming**

A person who, at any time or sitting, by playing at cards, dice or any other game, or by betting on the sides or hands of persons who play, loses to a person so playing or betting, a sum of money, or other valuable thing, amounting to \$25 or more, and pays or delivers the money or thing, or any part thereof, may, within three months after the payment or delivery, sue for and recover the money, goods or other valuable thing, so lost and paid or delivered, or any part thereof, or the full value thereof, by a civil action, from the winner thereof, with costs. If the person who loses the money or other thing, does not, within three months actually and bona fide, and without collusion, sue, and with effect prosecute, therefor, any person may sue for, and recover treble the value of the money, goods, chattels and other things, with costs of suit, by a civil action against the winner, one-half to the use of the plaintiff, the remainder to the use of the District of Columbia.

**§ 16-1703. Relief from further penalty upon discovery and repayment of losses**

Upon the discovery and repayment of the money or other thing to be discovered and repaid as provided by section 16-1702, the person who so discovers and repays shall be acquitted, indemnified, and discharged from any further or other punishment, forfeiture, or penalty, that he may have incurred by the playing for, or winning, the money or other thing so discovered and repaid.

**§ 16-1704. Cheating at gambling**

Whoever, at any one time or sitting, by fraud or false pretense, while playing at any game, or while having a share in a wager played for, or while betting on the sides or hands of persons who play, wins, or acquires to himself or to any other person, above the sum or value of \$25, shall, upon conviction of the offense, forfeit five times the value of the sum of money or other thing so won, and shall be deemed infamous.

The penalty prescribed by this section may be recovered in a civil action by the persons specified by, and in the manner provided by, section 16-1702.

**CHAPTER 19—HABEAS CORPUS**

Sec.

- 16-1901. Petition to District Court; issuance of writ.
- 16-1902. Service of writ; return.
- 16-1903. Suspected evasion or disobedience of writ; procedure.
- 16-1904. Forfeiture and penalty for failure to produce.
- 16-1905. Right to copy of commitment; forfeiture.
- 16-1906. Inquiry into cause of detention; bail; bond.
- 16-1907. Traversing return; pleading; witnesses.
- 16-1908. Right of other persons to writ.
- 16-1909. Construction of chapter.

**§ 16-1901. Petition to District Court; issuance of writ**

A person committed, detained, confined, or restrained from his lawful liberty within the District, under any color or pretense whatever, or a person in his behalf, may apply by petition to the United States District Court for the District of Columbia, or a judge thereof, for a writ of habeas corpus, to the end that the cause of the commitment, detainer, confinement, or restraint may be inquired into. The court or the judge applied to, if the facts set forth in the petition make a prima facie case, shall forthwith grant the writ, directed to the officer or other person in whose custody or keeping the party so detained is, returnable forthwith before the court or judge.

**§ 16-1902. Service of writ; return**

A writ of habeas corpus issued pursuant to this chapter shall be served by delivering it to the officer or other person to whom it is directed, or by leaving it at the prison or place at which the party suing it out is detained. The officer or other person shall forthwith, or within such reasonable time as the court or judge directs:

- (1) make return of the writ and cause the person detained to be brought before the court or judge, according to the command of the writ; and
- (2) certify the true cause of his detainer or imprisonment, if any, and under what color or pretense he is confined or restrained of his liberty.

**§ 16-1903. Suspected evasion or disobedience of writ; procedure**

On an application for a writ of habeas corpus, if probable cause is shown for believing that the person charged with confining or

detaining the person applying therefor, or on whose behalf the application is made:

(1) is about to remove the person so detained from the place where he is then detained, for the purpose of evading a writ of habeas corpus, or for other purposes; or

(2) he would evade or not obey a writ of habeas corpus—the court or judge shall insert in the writ a clause commanding the United States marshal to serve the writ on the person to whom it is directed and cause him immediately to appear before the court or judge, together with the person so confined or detained. Thereupon, the marshal shall immediately carry those persons before the court or judge, and the court or judge shall proceed to inquire into the matter.

#### **§ 16-1904. Forfeiture and penalty for failure to produce**

If an officer or other person to whom a writ of habeas corpus is directed neglects or refuses to:

(1) make return of the writ; or

(2) bring the body of the person detained—

according to the command of the writ, he shall forfeit to the person detained the sum of \$500, and be liable to attachment and punishment as for a contempt.

#### **§ 16-1905. Right to copy of commitment; forfeiture**

A person committed or detained, or a person in his behalf, may demand a true copy of the warrant of commitment or detainer. An officer or other person detaining a person, who refuses or neglects to deliver to him or to a person in his behalf a true copy of the warrant of commitment or detainer, if one exists, within six hours after the demand, shall forfeit to the party so detained the sum of \$500.

#### **§ 16-1906. Inquiry into cause of detention; bail; bond**

On the return of a writ of habeas corpus issued pursuant to this chapter and the production of the person detained, the court or judge shall immediately inquire into the legality and propriety of the confinement or detention. If it appears that the person is detained without legal warrant or authority, the court or judge shall immediately release or discharge him. If the court or judge deems his detention to be lawful and proper, the court or judge shall remand him to the same custody, or, in a proper case, admit him to bail, if he is confined on a charge of having committed a bailable criminal offense. If he is bailed, the court or judge shall require a sufficient bond or recognizance to answer in the proper court, and transmit it to that court.

#### **§ 16-1907. Traversing return; pleading; witnesses**

A person at whose instance or in whose behalf a writ of habeas corpus has been issued may traverse the return thereto, or plead any matters showing that there is not a sufficient legal cause for his confinement or detention. The court or judge may issue process for witnesses or for the production of papers, which shall be served and enforced in like manner as similar process issued in a cause pending in the court, if the court or judge is satisfied as to the materiality of the testimony proposed to be adduced.

#### **§ 16-1908. Right of other persons to writ**

A person entitled to the custody of another person, unlawfully confined or detained by a third person, as a parent, guardian, committee, or husband, entitled to the custody of a minor child, ward, lunatic, or wife, upon application to the court or a judge as provided by this chapter, and showing just cause therefor, under oath, is entitled to a writ of habeas corpus, directed to the person confining or detaining, requiring him forthwith to appear and produce before the court

or judge the person so detained, and the same proceedings shall be had in relation thereto as provided for by this chapter. The court or judge, upon hearing the proofs, shall determine which of the contesting parties is entitled to the custody of the person so detained, and commit the custody of the person to the party legally entitled thereto.

#### **§ 16-1909. Construction of chapter**

This chapter does not affect any provision of chapter 153 of Title 28, United States Code.

62 Stat. 964.  
28 USC 2241-  
2255.

### **CHAPTER 21—JOINT CONTRACTS**

#### **Sec.**

**16-2101. Definition of joint and several contracts.**

**16-2102. Death of party to the contract.**

**16-2103. Extinguishment or merger of cause of action.**

**16-2104. Death after action brought; legal representatives.**

**16-2105. Proof of joint liability unnecessary; judgment.**

**16-2106. Separate composition or compromise.**

#### **§ 16-2101. Definition of joint and several contracts**

For the purposes of action thereon, a contract or obligation entered into by two or more persons, whether:

- (1) the persons are partners or joint contractors;
- (2) the contract is under seal or not;
- (3) it is written or verbal; or
- (4) it is expressed to be joint and several or not—

is deemed to be joint and several.

#### **§ 16-2102. Death of party to the contract**

If a person specified by section 16-2101 dies, his executors, administrators, or heirs are bound by the contract in the same manner and to the same extent as if the contract or obligation were expressed to be joint and several.

#### **§ 16-2103. Extinguishment or merger of cause of action**

Where, with respect to a contract specified by section 16-2101, an action is brought against:

- (1) all the parties thereto, but service of process is had on some, only, of the defendants; or
- (2) some, only, of the parties thereto, and service of process is had on them only—

a judgment against the parties so served does not work an extinguishment or merger of the cause of action on which the judgment is founded as respects the parties not so served. They shall remain liable to be sued separately.

#### **§ 16-2104. Death after action brought; legal representatives**

When one of several defendants in an action dies after the commencement of the action, his legal representatives may be made parties to the action as directed by chapter 1 of Title 12.

#### **§ 16-2105. Proof of joint liability unnecessary; judgment**

In actions *ex contractu* against alleged joint debtors it is not necessary for the plaintiff to prove their joint liability as alleged in order to maintain his action. He is entitled to recover, as in actions *ex delicto*, against such of the defendants as are shown by the evidence to be jointly indebted to him, or against one only, if he alone is shown to be indebted to him, and judgment shall be rendered as if the others had not been joined in the action.

#### **§ 16-2106. Separate composition or compromise**

Any one of several joint debtors, when their debt is overdue, may make a separate composition or compromise with their creditors, with the same effect as is provided in the case of parties by chapter 2 of Title 41.

31 Stat. 1414.



## CHAPTER 23—JUVENILE COURT PROCEEDINGS

### SUBCHAPTER I—JUVENILE DELINQUENCY PROCEEDINGS AND RELATED MATTERS

#### Sec.

- 16-2301. Definitions.
- 16-2302. Information regarding child; investigation; petition; contents.
- 16-2303. Summons; notice; custody of child.
- 16-2304. Service of summons; time of hearing.
- 16-2305. Failure to obey summons; contempt; warrant.
- 16-2306. Taking child into custody; release to custody of parent, guardian, custodian, or probation officer; limitation or detention.
- 16-2307. Hearing; exclusion of public; jury trial.
- 16-2308. Determination and order of Court.
- 16-2309. Modification or revocation of order; petition; return of child, or other action.
- 16-2310. Appointment of guardian; custody as between parents.
- 16-2311. Protection of religious affiliations.
- 16-2312. Physical and mental examinations of children.
- 16-2313. Place of detention of children.
- 16-2314. Applicability to adult cases; offenses and penalties; jury trial.
- 16-2315. Finality of judgments.
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### SUBCHAPTER II—PATERNITY PROCEEDINGS

- 16-2341. Definitions.
- 16-2342. Party plaintiff; information.
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- 16-2349. Judgment.
- 16-2350. Support payments.
- 16-2351. Voluntary agreement for support; approval; order of court; exclusion of other remedies.
- 16-2352. Death of defendant; liability of estate.
- 16-2353. New birth record upon marriage of natural parents.
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### SUBCHAPTER III—MISCELLANEOUS PROVISIONS

- 16-2381. Payments for support and maintenance under section 22-903 to 22-905; voluntary payments; disbursement.
- 16-2382. Jury.
- 16-2383. Suspension of imposition or execution of sentence.
- 16-2384. Fees prohibited.

### Subchapter I—Juvenile Delinquency Proceedings and Related Matters

#### § 16-2301. Definitions

As used in this subchapter:

- “adult” means a person 18 years of age or older; and
- “child” means a person under 18 years of age.

#### § 16-2302. Information regarding child; investigation; petition; contents

When a person gives to the Director of Social Work of the Juvenile Court of the District of Columbia, or other officer of the court duly designated as his representative, information in his possession that a child is within the provisions of section 11-1551, a duly designated officer of the court shall make preliminary investigation to determine whether the interests of the public or of the child require that further action be taken, and report his finding, together with a statement of the facts, to the Director of Social Work. When practicable, the in-

quiry shall include a preliminary investigation of the home and environmental situation of the child, his previous history, and the circumstances that were the subject of the information. When the Director of Social Work finds that jurisdiction should be acquired, he shall, after consultation with and approval by the corporation counsel or his assistant assigned to the court, authorize a petition to be filed. Where the Director fails so to find, the person giving information to the Director may present the facts to the corporation counsel or his assistant, who, after investigation by an officer of the court as herein provided, may authorize a petition to be filed. The proceedings shall be entitled, "In the matter of \_\_\_\_\_, a child under eighteen years of age."

The petition shall be verified by the officer making the investigation, or other person having personal knowledge of the case, and shall allege briefly the facts which bring the child within the provisions of section 11-1551, and shall state the name, age, and residence of

- (1) the child;
- (2) his parents;
- (3) his legal guardian, if there be one;
- (4) the person or persons having custody or control of the child; and
- (5) the nearest known relative, if no parent or guardian can be found.

When any of the facts herein required are not known by the petitioner the petition shall so state.

#### **§ 16-2303. Summons; notice; custody of child**

After a petition has been filed pursuant to section 16-2302, unless the parties hereinafter named voluntarily appear, the court shall issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have custody or control of the child to appear personally and bring the child before the court at a time and place stated. Where the person so summoned is other than the parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed, by personal service before the hearing, except as herein-after provided. If the child is married, the other spouse shall also be so notified. Summons may be issued requiring the appearance of any other person whose presence is necessary.

Where it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the court may cause to be endorsed upon the summons an order that the officer serving it shall at once take the child into custody.

#### **§ 16-2304. Service of summons; time of hearing**

Service of summons issued pursuant to section 16-2303 shall be made personally by the delivery of a true and attested copy to the person summoned. Where reasonable but unsuccessful efforts have been made to make personal service of summons or notice and it appears that it is impracticable to do so, the court may order service of summons or notice by registered mail to the last-known address or by publication, or both, as it deems necessary. It is sufficient to confer jurisdiction if service is effected at any time before the date fixed in the summons for the return thereof, but, on request of the parent or guardian or person having custody of the child, the hearing on the petition may not take place until three days after service of the summons.

The United States marshal for the District of Columbia or his deputy shall execute the orders and processes of the Court in the same manner as he executes those of the United States District Court for

the District of Columbia, and shall designate at least one of his deputies to serve at the court, where he shall perform such services as the judge requires.

**§ 16-2305. Failure to obey summons; contempt; warrant**

When a person summoned as provided by sections 16-2303 and 16-2304, without reasonable cause, fails to appear, he may be proceeded against for contempt of court. When the summons can not be served, or the parties served fail to obey it, or the welfare of the child requires that he be brought forthwith into the custody of the court, a warrant may be issued against the parent or guardian or against the child himself.

**§ 16-2306. Taking child into custody; release to custody of parent, guardian, custodian, or probation officer; limitation on detention**

(a) When an officer takes a child into custody, he shall, unless it is impracticable or has been otherwise ordered by the court, accept the written promise of the parent, guardian, or custodian to bring the child to the court at the time fixed. Thereupon, the child may be released in the custody of a parent, guardian, or custodian. If not so released, the child shall be placed in the custody of a probation officer or other person designated by the court, or taken immediately to the court or to a place of detention provided by the Board of Commissioners of the District of Columbia or its authorized representative, and the officer taking him shall immediately notify the court and shall file a petition when directed to do so by the court.

(b) A child whose custody has been assumed by the court may, pending final disposition of the case, be released by the court in the custody of a parent, guardian, or custodian, or of a probation officer or other person appointed by the court, to be brought before the court at the time designated. When not released as herein provided, the child, pending the hearing of the case, shall be detained in a place of detention provided by the Board of Commissioners of the District of Columbia or its authorized representative, subject to further order of the court.

(c) This subchapter does not forbid a peace officer, police officer, or probation officer from immediately taking into custody a child:

- (1) who is found violating a law or ordinance; or
- (2) who is reasonably believed to be a fugitive from his parents or from justice; or
- (3) whose surroundings are such as to endanger his health, morals, or safety, unless immediate action is taken.

In a case specified by this subsection, the officer taking the child into custody shall immediately report the fact to the court and the case shall then be proceeded with as provided by this subchapter and chapter 15 of Title 11. A child so taken into custody may not be held in a place of detention for a period longer than five days, excluding Sundays and holidays, unless the court orders him detained for a further period.

**§ 16-2307. Hearing; exclusion of public; jury trial**

The court may conduct a hearing pursuant to this subchapter in an informal manner, and may adjourn the hearing from time to time. The general public shall be excluded from the hearing and only such persons as have a direct interest in the case and their representatives may be admitted except that the judge presiding at the hearing, by rule of court or special order, may admit such other persons as he deems to have a legitimate interest in the case or the work of the court. Cases involving children may be heard separately and apart from the trial of cases against adults. The court shall hear and deter-

mine all cases of children without a jury unless a jury is demanded by the child, his parent, guardian, or the court.

**§ 16-2308. Determination and order of the Court**

(a) When the court finds that the child comes within the provisions of this subchapter and section 11-1551, it may by order duly entered:

(1) place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court determines;

(2) commit the child to the Board of Commissioners of the District of Columbia or its authorized representative; or to the National Training School for Boys if in need of such care as is given in the school; or to a qualified suitable private institution or agency willing and able to assume the education, care, and maintenance of the child without expense to the public; or

(3) make such further disposition of the child as may be provided by law and as the court deems to be best for the best interests of the child.

Paragraphs (1), (2), and (3) of this subsection do not authorize the removal of the child from the custody of his parents unless his welfare and the safety and protection of the public can not be adequately safeguarded without the removal.

(b) In committing a child to custody other than that of its parent, the court may, after giving the parent a reasonable opportunity to be heard, adjudge that the parent shall pay in such manner as the court directs a sum that will cover in whole or in part the support of the child. If the parent willfully fails or refuses to pay the sum, he may be proceeded against as provided by law for cases of desertion or failure to provide subsistence.

(c) When the court commits a child to an institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child.

(d) An adjudication upon the status of a child in the jurisdiction of the court does not operate to impose any of the civil disabilities ordinarily imposed by conviction, and a child is not deemed a criminal by reason of an adjudication. An adjudication is not deemed a conviction of a crime, and a child may not be charged with or convicted of a crime in any court, except as provided by section 11-1553. The disposition made of a child, or evidence given in the court, is not admissible as evidence against the child in any case or proceeding in any other court, and the disposition, or evidence, or adjudication, does not operate to disqualify a child in any future civil-service examination, appointment, or application for public service under either the Government of the United States or of the District of Columbia.

**§ 16-2309. Modification or revocation of order; petition; return of child, or other action**

An order of commitment or probation made by the court in the case of a child may be modified or revoked by the court from time to time.

A parent, guardian, or next friend of a child who has been committed by the court to the custody of an institution, agency, or person, may at any time file with the court a verified petition, making application for modification or revocation of an order of commitment or probation, stating that the institution, agency, or person has denied application for the release of the child or has failed to act upon the application within a reasonable time. When the court is of the opinion that an investigation should be had, it may, upon due notice to all concerned, proceed to hear and determine the question at issue. It may



thereupon order that the child be restored to the custody of its parent or guardian, or be retained in the custody of the institution, agency, or person; and may direct the institution, agency, or person to make such other arrangements for the child's care and welfare as the circumstances of the case require; or the court may make a further order or commitment.

**§ 16-2310. Appointment of guardian; custody as between parents**

When in the course of a proceeding instituted pursuant to this subchapter it appears to the court that the welfare of a child will be promoted by the appointment of a relative or other suitable individual as guardian of its person, when the child is not committed to an institution or to the custody of an incorporated society, the court has jurisdiction to make the appointment either upon the application of the child or some relative or next friend or upon the court's own motion. The court may issue an order to show cause, which shall be served upon the parent or parents or custodian of the child in such manner and for such time prior to the hearing as the court deems reasonable. In a case arising pursuant to this subchapter, the court may also determine as between parents whether the father or the mother shall have the custody and control of the child.

**§ 16-2311. Protection of religious affiliations**

In placing a child under guardianship or custody other than that of its parent, the court, when practicable, shall select a person, or an institution or agency governed by persons, of like religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or if the religious faith of the child is not ascertained, then of either of the parents.

**§ 16-2312. Physical and mental examinations of children**

The court may cause a child coming under its jurisdiction to be examined by a physician, psychiatrist, or psychologist appointed by it.

**§ 16-2313. Place of detention of children**

(a) Except as provided by subsection (b) of this section, a child may not be placed in or committed to any prison, jail, or lockup, or be taken into custody, detained, or transferred from place to place, where he may be brought in contact or communication with an adult convicted of crime or under arrest and charged with crime.

(b) A child 16 years of age or older, whose habits or conduct are deemed such as to constitute a menace to other children, may, with the consent of a judge or Director of Social Work, be placed in a jail or other place of detention for adults, but in a room or ward separate from adults.

(c) The Board of Commissioners of the District of Columbia or its authorized representative shall make adequate provision for the temporary detention of children within its jurisdiction in a detention home or in boarding homes selected for the purpose.

**§ 16-2314. Applicability to adult cases; offenses and penalties; jury trial**

(a) All provisions of this subchapter relative to procedure in cases of children so far as practicable apply also to cases against adults arising under section 11-1551, 11-1554, 11-1555, or 11-1556, or any of the sections referred to in section 11-1557, with the consent of the defendant, or when not inconsistent with other provisions of law relating to the conduct of adult cases. Proceedings may be instituted upon complaint of an interested party or upon the court's own motion, and a reasonable opportunity to appear shall be afforded the respondent.

The court may issue a summons, a warrant of arrest, or other process in order to secure or to compel the attendance of a necessary person.

(b) Whoever, by act or omission, willfully causes, encourages, or contributes to a condition which would bring a child within the provisions of section 11-1551 or tends to cause such a condition, is guilty of a misdemeanor, and shall be fined not more than \$200 or imprisoned not more than one year, or both. Upon the trial, the court may impose such sentence as the law provides, or may suspend sentence and place on probation, and by order impose upon the adult such duty as is deemed to be for the best interests of the child or other persons concerned. If an adult is charged with an offense for which he is entitled to a trial by jury, he shall be so tried unless he expressly waives his right to jury trial.

#### **§ 16-2315. Finality of judgments**

Except as provided by sections 11-741(a)(3), 11-741(b), 17-305(a), 17-306 and 17-307(a), in all cases tried before the court pursuant to this subchapter, the judgment of the court is final.

#### **§ 16-2316. Construction and purpose**

Sections 11-1551 to 11-1554, section 11-1583 (a)(1) and (a)(3), section 11-1584, section 11-1586 (a)-(d), and this subchapter shall be liberally construed so that, with respect to each child coming under the court's jurisdiction:

(1) the child shall receive such care and guidance, preferably in his own home, as will serve his welfare and the best interests of the District; and

(2) the child's family ties shall be conserved and strengthened whenever possible, and, except when his welfare or the safety and protection of the public can not be adequately safeguarded without his removal, he may not be removed from the custody of his parents; and

(3) when the child is removed from his own family, the court shall secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given him by his parents.

### **Subchapter II—Paternity Proceedings**

#### **§ 16-2341. Definitions**

As used in this subchapter:

"Corporation Counsel" has the meaning prescribed by section 11-1583(b).

"Director of Public Health" means the Board of Commissioners of the District of Columbia or the officer or agency designated by the Board to have jurisdiction of, control, direct, and supervise, matters relating to public health and vital statistics in the District; and

"Metropolitan Police Department" means the Board of Commissioners of the District of Columbia or the agency designated by the Board to serve as the law enforcement agency for the District.

#### **§ 16-2342. Party plaintiff; information**

Proceedings pursuant to section 11-1555 and this subchapter shall be instituted in the Juvenile Court of the District of Columbia in the name of the District of Columbia, and prosecution upon information shall be by the Corporation Counsel for the District of Columbia or his assistants.

#### **§ 16-2343. Time of bringing complaint**

Proceedings to establish paternity and provide for the support of a child born out of wedlock may be instituted after four months of

pregnancy or within two years after the birth of the child, or within one year after the putative father has ceased making contributions for the support of the child. The time during which the defendant is absent from the jurisdiction shall be excluded from the computation of the time within which complaint may be filed.

#### **§ 16-2344. Commencement of proceeding; complaint**

An unmarried woman who is at least four months pregnant or who has been delivered of a child born out of wedlock, or a married woman who is at least four months pregnant with a child, which if born alive, may be born out of wedlock, or who has been delivered of a child born out of wedlock and who was not living with nor cohabiting with her husband during the period of time in which the child could have been conceived, may appear before the Corporation Counsel for the District of Columbia or his assistant at the Juvenile Court and accuse a man of being the father of her child and request his arrest. In case of death, disability, or incompetence of the mother, the complaint may be made by the custodian, guardian, or next friend of the child. The complainant shall be examined under oath by the Corporation Counsel or his assistant to determine the validity of the accusation. If, upon examination, there appears reasonable cause to believe that the accused person is the father of the child in question, the complaint shall be reduced to writing, verified by the complainant, and filed with the clerk of the court. The verified complaint may be introduced in evidence to impeach the complaining witness in any subsequent proceedings therein.

#### **§ 16-2345. Apprehension of accused**

Upon the filing of a complaint pursuant to section 16-2344, the case shall be calendared forthwith for preliminary hearing. The clerk of the court shall issue a summons requiring the accused to appear in court on a day certain for that purpose, or, if deemed necessary by the court, a warrant for the arrest of the defendant may be issued, directed to the United States marshal or the Chief of Police or any other member of the Metropolitan Police Department of the District of Columbia, requiring the accused to be arrested and brought before the court.

#### **§ 16-2346. Bond; commitment; right to jury trial**

The court may require the person accused to enter into bond with surety in a sum not to exceed \$2,500, guaranteeing his appearance on the date set for hearing or trial. If the defendant fails to appear, the security for his appearance shall be forfeited and shall be applied toward the support of the child if so ordered by the court. If the defendant fails to post bond fixed by the court he shall forthwith be committed to the District Jail, there to remain until the date set for hearing, or until he enters into the required bond or otherwise is discharged by due process of law. In all prosecutions under this subchapter, the defendant is entitled to, but may waive, trial by jury. A final hearing may not take place until after the birth of the child.

#### **§ 16-2347. Blood tests**

When it is relevant to the prosecution or defense of an illegitimacy action, the court may direct that the mother, child, and the defendant submit to one or more blood tests to determine whether or not the defendant can be excluded as being the father of the child, but the results of the test may be admitted as evidence only in cases where the defendant does not object to its admissibility.

#### **§ 16-2348. Exclusion of public**

Upon the trial of proceedings pursuant to this subchapter, the court may exclude the general public, and shall do so at the request of either party.

**§ 16-2349. Judgment**

(a) **PRENATAL AND CONFINEMENT EXPENSES; MAINTENANCE.** When the defendant in a proceeding pursuant to this subchapter, in open court acknowledges the paternity of a child born out of wedlock, or when at the trial the finding of the court or jury is against the defendant, the court, in rendering judgment, may enter an order for the payment of the prenatal medical care and costs of the mother's confinement and expenses of childbirth in such amount or amounts as it deems reasonable, commensurate with defendant's ability to pay. The court may also order payments for the maintenance and education of the child, commensurate with defendant's ability to pay, to be made at such periods or intervals as the court directs. The court may order payments to be made by the defendant at a precinct of the Metropolitan Police Department of the District of Columbia. Payments shall continue until the child reaches the age of 16 years, unless, prior thereto, the child is legally adopted.

(b) **PETITION FOR MODIFICATION OF JUDGMENT; HEARING.** From time to time, the court, after a hearing, may change or modify its order directing the amount that defendant shall pay for the maintenance and support of the child. The hearing shall be held not less than ten days following notice in writing by the clerk of the court to the parties in interest, mailed to or left at their last known place of residence.

(c) **DEATH OF CHILD.** If a child dies before reaching the age of 16 years, the court upon proof thereof, may order the payment of reasonable funeral expenses, and shall terminate the order for maintenance. Arrears that may be owing at the time of death may be canceled.

**§ 16-2350. Support payments**

(a) **SECURITY; PROBATION; COMMITMENT FOR DEFAULT.** The court may require a defendant, against whom a judgment is rendered pursuant to this subchapter, to give security not to exceed \$2,500 guaranteeing payments ordered by the court, or may suspend the requirement of security and place the defendant on probation to the court on condition that payments be made as ordered. In default of a payment as ordered, the Court may revoke probation and commit the defendant to jail for a period of not more than one year at any one time. At the expiration of a term of commitment, the court may discharge the defendant, but his liability to make subsequent payments or any payments in arrears at the time of commitment in accordance with the judgment or for commitment for further default is not thereby affected. In lieu of commitment or as a condition of his release from jail, the court may set aside commitment and again place the defendant on probation upon such terms as it directs. The amount of security, if forfeited, shall be disbursed as the court directs.

(b) **JUDGMENT FOR ARREARS; EXECUTION.** If there is a default of payments as ordered, the court, after notice by registered mail to the defendant at his last-known address, and after hearing, may reduce the amount of arrears to judgment. The court, after the notice and hearing, may reduce to judgment the arrears under any order hereafter entered for the support and maintenance of a child born out of wedlock, or any amounts ordered to be paid by the defendant under this subchapter. When the judgment is docketed in the clerk's office of the United States District Court for the District of Columbia, it has the same force and effect as judgments of that court, and execution thereon may be effected in the same manner as upon judgments of that court.



**§ 16-2351. Voluntary agreement for support; approval; order of court; exclusion of other remedies**

The putative father of a child born out of wedlock may enter into an agreement with the mother of the child, or with another person on behalf of the child, for the support and maintenance of the child, and the agreement may be submitted to the court for ratification and approval. Upon ratification and approval, the court shall issue an order incorporating the terms thereof, and payments thereunder may be received and disbursed by the court in the same manner as provided by section 16-2381. The faithful performance under the terms of the agreement bars other remedies of the mother or any other person on behalf of the child for the support of the child, subject to section 16-2349(b).

**§ 16-2352. Death of defendant; liability of estate**

If the defendant dies after paternity has been established and prior to the time the child reaches the age of 16 years, any sums due and unpaid under an order of the court at the time of his death constitute a valid claim against his estate.

**§ 16-2353. New birth record upon marriage of natural parents**

When a certified copy of a marriage certificate is submitted to the Director of Public Health, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child and the paternity of the child has been judicially determined or acknowledged by the husband before the Commissioners or their 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, or before a person authorized to administer oaths, and the affidavit is delivered to the Commissioners or their designated agent, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal, and opened for inspection only upon order of the United States District Court for the District of Columbia.

**§ 16-2354. Reports to Director of Public Health**

(a) Upon entry of a final judgment determining the paternity of a child born out of wedlock, the clerk of the court shall forward a certificate to the Director of Public Health, or his authorized representative in the jurisdiction in which the child was born, giving the name of the person adjudged to be the father of the child.

(b) Upon receipt of the certificate provided by subsection (a) of this section, the Director of Public Health or his authorized representative shall file it with the original birth record, and thereafter may issue a certificate of birth registration including thereon the name of the person adjudged to be the father of the child.

**§ 16-2355. Applicability of sections relating to desertion or non-support**

The provisions of sections 22-903 to 22-905, making it a misdemeanor to abandon or willfully neglect to provide for the support and maintenance of minor children in destitute or necessitous circumstances, and providing the proceedings and punishment therefor, also apply to a person who abandons or fails to support his illegitimate child when paternity has been established judicially or when paternity has been directly acknowledged by the putative father under oath, or indirectly acknowledged by voluntarily making contributions to the support of the child.

**§ 16-2356. Construction**

Section 11-1555, section 11-1583(a)(2), section 11-1586(e), and this subchapter shall be so interpreted as to effectuate the protection and welfare of the child involved in any proceedings thereunder.

**Subchapter III—Miscellaneous Provisions****§ 16-2381. Payments for support and maintenance under section 22-903 to 22-905; voluntary payments; disbursement**

(a) In all cases arising pursuant to sections 22-903 to 22-905, that, pursuant to section 11-1556, are brought in the Juvenile Court of the District of Columbia, the court may order payments to be made by the defendant, including a defendant to which section 16-2355 relates, at a precinct of the Metropolitan Police Department of the District of Columbia. As used in this subsection, "Metropolitan Police Department" has the same meaning as that prescribed in section 16-2341.

34 Stat. 86;  
44 Stat. 716.

(b) The Juvenile Court may accept voluntary payments for the support and maintenance of wife or minor children and disburse the moneys to the persons for whom the contributions are paid, in the same manner as the payments are accepted and disbursed pursuant to sections 22-903 to 22-905.

**§ 16-2382. Jury**

The jury for service in the Juvenile Court shall consist of twelve persons.

**§ 16-2383. Suspension of imposition or execution of sentence**

In all cases in the Juvenile Court, the court may, upon conviction, suspend the imposition of sentence or impose sentence and suspend the execution thereof, if it appears to the satisfaction of the court that the ends of justice and the best interests of the public and of the defendant would be served thereby. In the imposition of sentence and the suspension of the execution thereof, the court may place the defendant on probation as provided by section 16-2314, 22-903, or 31-207, as the case may be.

**§ 16-2384. Fees prohibited**

A fee may not be charged for any service rendered by the clerk of the Juvenile Court or by any officer of the court.

**CHAPTER 25—CHANGE OF NAME****Sec.**

16-2501. Application; persons who may file.

16-2502. Notice; contents.

16-2503. Decree.

**§ 16-2501. Application; persons who may file**

Whoever, being a resident of the District and desiring a change of name, may file an application in the United States District Court for the District of Columbia setting forth the reasons therefor and also the name desired to be assumed. If the applicant is an infant, the application shall be filed by his parent, guardian, or next friend.

**§ 16-2502. Notice; contents**

Prior to a hearing pursuant to this chapter, notice of the filing of the application, containing the substance and prayer thereof, shall be published once a week for three consecutive weeks in a newspaper in general circulation published in the District.

**§ 16-2503. Decree**

On proof of the notice prescribed by section 16-2502, and upon a showing that the court deems satisfactory, the court may change the name of the applicant according to the prayer of the application.

## CHAPTER 27—NEGLIGENCE CAUSING DEATH

Sec.

16-2701. Liability; damages; prior recovery as precluding action.

16-2702. Party plaintiff; statute of limitations.

16-2703. Distribution of damages.

### § 16-2701. Liability; damages; prior recovery as precluding action

When, by an injury done or happening within the limits of the District, the death of a person is caused by the wrongful act, neglect, or default of a person or corporation, and the act, neglect, or default is such as will, if death does not ensue, entitle the person injured, or if the person injured is a married woman, entitle her husband, either separately or by joining with the wife, to maintain an action and recover damages, the person who or corporation that is liable if death does not ensue is liable to an action for damages for the death, notwithstanding the death of the person injured, even though the death is caused under circumstances that constitute a felony.

The damages shall be assessed with reference to the injury resulting from the act, neglect, or default causing the death, to the spouse and the next of kin of the deceased person; and shall include the reasonable expenses of last illness and burial. Where there is a surviving spouse, the jury shall allocate the portion of its verdict payable to the spouse and next of kin, respectively, according to the finding of damage to the spouse and next of kin. If, in a particular case, the verdict is deemed excessive the trial judge or the United States Court of Appeals for the District of Columbia Circuit, on appeal of the cause, may order a reduction of the verdict. An action may not be maintained pursuant to this chapter if the party injured by the wrongful act, neglect, or default has recovered damages therefor during his life.

### § 16-2702. Party plaintiff; statute of limitations

An action pursuant to this chapter shall be brought by and in the name of the personal representative of the deceased person, and within one year after the death of the person injured.

### § 16-2703. Distribution of damages

The damages recovered in an action pursuant to this chapter, except the amount specified by the verdict or judgment covering the reasonable expenses of last illness and burial, may not be appropriated to the payment of the debts or liabilities of the deceased person, but inure to the benefit of his or her family and shall be distributed to the spouse and next of kin according to the allocation made by the verdict or judgment, or in the absence of an allocation, according to the provisions of the statute of distribution in force in the District.

## CHAPTER 29—PARTITION AND ASSIGNMENT OF DOWER

### SUBCHAPTER I—PARTITION GENERALLY

Sec.

16-2901. Parties; accounting by tenant in common.

### SUBCHAPTER II—ASSIGNMENT OF DOWER; PARTIES TO PARTITION PROCEEDINGS; SALE OF PROPERTY DISCHARGED FROM DOWER OR SPOUSE'S INTESTATE SHARE

16-2921. Appointment of commissioners; cases of partition.

16-2922. Widow or widower of tenant in common.

16-2923. Wife or husband as a party to partition proceeding.

16-2924. Sale of land encumbered by dower; lack of widow's or widower's consent; written consent; portion of proceeds.

16-2925. Sale of indivisible property; discharged from dower or intestate share.

**Subchapter I—Partition Generally****§ 16-2901. Parties; accounting by tenant in common**

The United States District Court for the District of Columbia may decree a partition of lands, tenements, or hereditaments on the complaint of a tenant in common, claiming by descent or purchase, or of a joint tenant; or when it appears that the property can not be divided without loss or injury to the parties interested, the court may decree a sale thereof and a division of the money arising from the sale among the parties, according to their respective rights.

(b) This section applies to cases where:

- (1) all the parties are of full age;
- (2) all the parties are infants;
- (3) some of the parties are of full age and some are infants;
- (4) some or all of the parties are non compos mentis; and
- (5) all or any of the parties are non-residents—

and a party, whether of full age, infant, or non compos mentis, may file a complaint pursuant to this section, an infant by his guardian or next friend, and a person non compos mentis by his committee.

(c) In a case of partition, when a tenant in common has received the rents and profits of the property to his own use, he may be required to account to his cotenants for their respective shares of the rents and profits. Amounts found to be due on the accounting may be charged against the share of the party owing them in the property, or its proceeds in case of sale.

(d) This section does not affect section 21-213.

31 Stat. 1203

**Subchapter II—Assignment of Dower; Parties to Partition Proceeding; Sale of Property Discharged From Dower or Spouse's Intestate Share****§ 16-2921. Appointment of commissioners; cases of partition**

When real property is held by a person or persons, by descent or purchase, in the whole of which a widow or widower is entitled to dower, either the widow or widower or a person entitled to the property or an undivided share therein may apply to the United States District Court for the District of Columbia to have the dower therein assigned. Thereupon, the court shall appoint three commissioners to lay off and assign the dower, if practicable. The report of the commissioners is subject to ratification by the court. In all cases of partition between two or more joint tenants or tenants in common of real property, in the whole of which a widow or widower is entitled to dower, the dower shall be laid off and assigned, in like manner, before the partition is decreed. When an estate of which a woman or man is dowable is entire, and the dower can not be set off therefrom by metes and bounds, it may be assigned by the court as of a third part of the net rents, issues, and profits thereof.

**§ 16-2922. Widow or widower of tenant in common**

When a widow or widower of a tenant in common of real property is entitled to dower in his or her undivided share of the property, and a partition is decreed between his or her heirs or devisees and the other tenants in common, the dower attaches to, and may, in the manner provided by section 16-2921, be assigned and laid out in, the shares assigned in severalty to the heirs or devisees, and the shares of the other tenants in common shall be assigned to them, respectively, in severalty, free from the dower.



**§ 16-2923. Wife or husband as party to partition proceeding**

On an application to the District Court to decree a partition of real property between tenants in common, it shall not be necessary to make the wife or husband of any of the persons a party to the proceedings, but the right of dower, or the wife's or husband's intestate share, as the case may be, shall attach to whatever part of the property is assigned in severalty to the wife or husband, and the other parts thereof shall be assigned free of the right of dower or intestate share.

**§ 16-2924. Sale of land encumbered by dower; lack of widow's or widower's consent; written consent; portion of proceeds**

When a decree is rendered for the sale of real property, in the whole of which a widow or widower is entitled to dower, if she or he will not consent to a sale of the property free of the dower, the District Court may, if it appears advantageous to the parties, cause the dower to be laid off and assigned as provided by this subchapter. If she or he will consent in writing to the sale of the property free of the dower, the court shall order that it be sold free of the dower, and shall allow her or him, in commutation of the dower, such portion of the net proceeds of sale as may be just and equitable, not exceeding one-sixth nor less than one-twentieth, according to the age, health, and condition of the widow or widower.

**§ 16-2925. Sale of indivisible property; discharge from dower or intestate share**

When real property is decreed to be sold for the purpose of division of the proceeds between tenants in common because the property is incapable of being divided between them in specie, the District Court may decree a sale of the property free and discharged from any right of dower, or from any intestate share of the wife or husband, as the case may be, of any of the parties in her or his undivided share.

**CHAPTER 31—PROBATE COURT PROCEEDINGS****Sec.**

16-3101. Definition.

16-3102. Settlement of accounts as prima facie evidence only.

16-3103. Summons; failure to appear or give evidence.

16-3104. Sequestration where person fails to appear.

16-3105. Plenary proceeding; refusal to answer as required.

16-3106. Issues to be made up in plenary proceeding; jury; compelling payment of costs.

16-3107. Enforcement of judgments, orders and decrees; application of property sequestered.

16-3108. Ordering investment of funds; revocation of letters for noncompliance.

16-3109. Compelling performance of duties by executors, administrators, etc.; revocation of letters.

16-3110. Accounting and delivering of property after revocation of letters; compelling performance.

16-3111. Order admitting will to probate as conclusive evidence.

16-3112. Arbitration; exceptions.

16-3113. Costs and execution.

**§ 16-3101. Definition**

As used in this chapter, "Probate Court" means the United States District Court for the District of Columbia.

**§ 16-3102. Settlement of accounts as prima facie evidence only**

Except as provided by section 16-3112, in actions:

(1) for an accounting, by legatees or next of kin against executors or administrators, or wards against their guardians; or

(2) to subject the real estate of decedents to the payment of their debts, by creditors against executors or administrators, or against heirs or devisees—

a prior settlement of accounts in the Probate Court is only prima facie evidence as to the correctness of the accounts.

**§ 16-3103. Summons; failure to appear or give evidence**

A summons issued by the Probate Court to a person concerned in the affairs of a deceased person, or to a witness or other person whose appearance in the court is deemed necessary or proper, is returnable at the discretion of the court. When it is necessary or proper, on the return of the "summoned", and failure of the person to appear, to enforce his appearance, or when a witness before the court refuses to give evidence, the court may exercise its powers of enforcement and punishment as provided by section 401 of Title 18, United States Code, or it may have his estate, or a part thereof attached and sequestered as provided by section 16-3104.

62 Stat. 701.

**§ 16-3104. Sequestration where person fails to appear**

(a) If two summonses issued to a person by the Probate Court are regularly returned non est by the United States marshal and it is necessary to proceed further to compel the person's attendance, the court may order and issue an attachment against his real and personal property. On return of the attachment, to which a schedule of the attached property, if any, shall be annexed, the court, by order, or commission under seal, may authorize a person or persons to take into his or their care and custody the property returned in the schedule, or a part thereof, and receive the profits thereof, to be accounted for, until the person summoned appears and obeys the order of the court, or until further order. If the marshal or other officer does not deliver the property accordingly, he is liable to be proceeded against as provided by this subsection.

(b) The persons authorized pursuant to subsection (a) of this section to take into their care and custody the property referred to shall first give bond to the United States with such security, and in such penalty, as the court directs. The bond shall be recorded, may be sued on, shall be on a footing with an administration bond, and shall be conditioned for rendering a true account of the estate or property, and of the profits thereof, and to deliver the property according to the order of the court, after deducting such allowance for loss, and such commission, not exceeding 5 per centum of the whole, as the court deems proper.

(c) When the purpose for which property sequestered under this section is answered, the court shall direct that the estate or property, and the profits, after making the deductions authorized by subsection (b) of this section, be restored to the person from whom the care and custody of the property were taken. When the person is dead, the court shall order the property to be delivered to his heirs, devisees or legal representatives, as soon as the purpose of the sequestration is answered, or immediately, on application, and on satisfying the court of the person's right, if the purpose, after the death of the original person, can not be answered.

**§ 16-3105. Plenary proceeding; refusal to answer as required**

When either of the parties having a contest in the Probate Court requires, the court may direct a plenary proceeding, by bill or petition, to which there shall be an answer, on oath or affirmation. If the party refuses to answer on oath or affirmation, as the case may require, to any matter alleged in the bill or petition, and proper for the court to decide upon, the court may exercise its powers of enforcement and punishment as provided by section 401 of Title 18, United States Code, or it may have his property attached and sequestered as provided by section 16-3104.

**§ 16-3106. Issues to be made up in plenary proceeding; jury; compelling payment of costs**

In a plenary proceeding provided for by section 16-3105, the Probate Court shall give judgment, or decree upon the bill and answer, or upon bill, answer, depositions, or finding of the jury. In all cases of contest, the court may award costs to the party deemed entitled thereto, and may compel payment by exercising its powers of enforcement and punishment as provided by section 401 of Title 18, United States Code, or by attachment and sequestration of the property as provided by section 16-3104.

62 Stat. 701.

**§ 16-3107. Enforcement of judgments, orders and decrees; application of property sequestered**

The Probate Court may enforce its judgments, orders, decrees, and decisions in the manner provided by sections 16-3103 and 16-3104. When a judgment, order, decree, or decision is for the payment of money, the court may apply the property sequestered to the purpose for which the judgment, order, decree, or decision is given.

**§ 16-3108. Ordering investment of funds; revocation of letters for noncompliance**

The Probate Court may order an executor, administrator, collector, or guardian, whom it has appointed, to bring into court or invest in securities, to be approved by the court, any funds received by the executor, administrator, collector, or guardian. If the party does not, within a reasonable time, to be fixed by the court, comply with the order, the court may revoke his letters.

**§ 16-3109. Compelling performance of duties by executors, administrators, etc.; revocation of letters**

The Probate Court may order an executor, administrator, collector, guardian, or testamentary trustee, who appears to be in default in respect to the rendering of an inventory or account or the fulfillment of a duty in the court, to be summoned to appear therein and fulfill his duty in the premises, on pain of revocation of his power to act. On his appearance, the court may make such order as is just. On his failure to appear, after having been duly summoned, the court may revoke his power to act and make such further order and other appointment as justice requires. If the summons to appear is returned by the marshal "not to be found," an alias summons shall be mailed to the last-known post-office address of the fiduciary or served upon his attorney of record, if he is within the jurisdiction of the court. On the failure of the fiduciary to appear, the court may revoke his power to act and make such further order and other appointment as justice requires.

**§ 16-3110. Accounting and delivering of property after revocation of letters; compelling performance**

When the Probate Court revokes letters testamentary or of administration, collection, or guardianship, the party whose letters are revoked shall render forthwith an account of his administration or guardianship up to the period of the rendition of the account and deliver and turn over to the person appointed in his place all the estate, money, and effects remaining in his hands that were received and held by him by virtue of his appointment so revoked. All moneys in the hands of an executor, administrator, or collector realized by him by the sale of the specific property are unadministered assets and shall be turned over in like manner. The court may direct the bond of the executor, administrator, or collector whose letters are revoked to be put in suit for the use of the new administrator or collector appointed in his place.

**§ 16-3111. Order admitting will to probate as conclusive evidence**

With respect to the trial of issues in the Probate Court, including the taking and use of testimony of non-resident witnesses, the Federal Rules of Civil Procedure, unless otherwise provided by law, are applicable thereto. A final order or decree admitting a will to probate, unless and until it is reversed, is conclusive evidence of the validity of the will in a collateral proceeding in which the will is brought into question, and a transcript of the record of the will, and of the decree admitting it to probate, is sufficient proof thereof.

28 USC app.

**§ 16-3112. Arbitration; exceptions**

The Probate Court may, with the consent in writing of both parties, arbitrate between a complainant and an executor or administrator, or between an executor or administrator and a person against whom the estate represented by him has a claim, or, with like consent, may refer the matter in dispute to an arbitrator. If reserved by the parties in their submission, exception as to matters of law may be filed to the award of the arbitrator, and the court may confirm or overrule the award. The award when confirmed is conclusive between the parties.

**§ 16-3113. Costs and execution**

The Probate Court may render judgment for costs against the unsuccessful party in any proceeding conducted in the court, and issue execution therefor.

**CHAPTER 33—QUIETING TITLE OBTAINED BY ADVERSE POSSESSION**

Sec.

**16-3301. Complaint; allegations; parties; service; decree.****§ 16-3301. Complaint; allegations; parties; service; decree**

When title to real property in the District of Columbia has become vested in a person by adverse possession, the holder thereof may file a complaint in the United States District Court for the District of Columbia to have the title perfected. In the complaint, it is sufficient to allege that the plaintiff holds the title to the property, and that it has vested in him, or in himself and in those under whom he claims, by adverse possession. In the action, it is not necessary to make any person a party defendant except those persons who appear to have a claim or title adverse to that of the plaintiff. Upon the trial of the cause, proof of the facts showing title in the plaintiff by adverse possession entitles him to a decree of the court declaring his title by adverse possession, and a copy of the decree may be entered of record in the office of the Recorder of Deeds for the District.

(b) In an action pursuant to this section, if process is returned not to be found, notice by publication may be substituted as in the case of nonresident defendants. Subject to subsection (c) of this section, if it is known whether one who, if living, would be an adverse party, is living or dead, or, in the case of a decedent, whether he died testate or left heirs, or his heirs or devisees are unknown, the cause may be proceeded with pursuant to section 13-341.

(c) The rights of infants or others under legal disability shall be saved for a period of two years after the removal of their disabilities, but the entire period during which they shall be preserved may not exceed twenty-two years from the time they accrued, either in the plaintiff or in the persons under whom he claims.



**CHAPTER 35—QUO WARRANTO****Sec.****16-3501. Persons against whom issued; civil action.****16-3502. Parties who may institute; ex rel. proceedings.****16-3503. Refusal of Attorney General or United States attorney to act; procedure.****16-3504. Allegations in petition of relator claiming office.****16-3505. Notice to defendant.****16-3506. Proceedings on default.****16-3507. Pleading; jury trial.****16-3508. Verdict and judgment.****16-3509. Usurping corporate franchise; judgment.****16-3510. Proceedings against corporate directors and trustees; judgment and order; enforcement.****16-3511. Recovery of damages from usurper; limitation.****§ 16-3501. Persons against whom issued; civil action**

A quo warranto may be issued from the United States District Court for the District of Columbia in the name of the United States against—

(1) a person who usurps, intrudes into, or unlawfully holds or exercises within the District a franchise or public office, civil or military, or an office in a domestic corporation; or

(2) one or more persons who act as a corporation within the District without being duly authorized, or exercise within the District corporate rights, privileges, or franchises not granted them by law in force in the District.

The proceedings shall be deemed a civil action.

**§ 16-3502. Parties who may institute; ex rel. proceedings**

The Attorney General or the United States attorney may institute a proceeding pursuant to this chapter on his own motion, or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified, setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned for the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.

**§ 16-3503. Refusal of Attorney General or United States attorney to act; procedure**

If the Attorney General or United States attorney refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the United States, on the relation of the interested person, on his compliance with the condition prescribed by section 16-3502 as to security for costs.

**§ 16-3504. Allegations in petition of relator claiming office**

When a quo warranto proceeding is against a person for usurping an office, on the relation of a person claiming the same office, the relator shall set forth in his petition the facts upon which he claims to be entitled to the office.

**§ 16-3505. Notice to defendant**

On the issuing of a writ of quo warranto the court may fix a time within which the defendant may appear and answer the writ. When the defendant can not be found in the District, the court may direct notice to be given to him by publication as in other cases of proceedings

against nonresident defendants, and upon proof of publication, if the defendant does not appear, judgment may be rendered as if he had been personally served.

#### **§ 16-3506. Proceedings on default**

If the defendant does not appear as required by a writ of quo warranto, after being personally served, the court may proceed to hear proof in support of the writ, and render judgment accordingly.

#### **§ 16-3507. Pleading; jury trial**

In a quo warranto proceeding, the defendant may demur or plead specially or plead "not guilty" as the general issue, and the United States may reply as in other actions of a civil character. Issues of fact shall be tried by a jury if either party requests it. Otherwise they shall be determined by the court.

#### **§ 16-3508. Verdict and judgment**

Where a defendant in a quo warranto proceeding is found by the jury to have usurped or intruded into or unlawfully held or exercised an office or franchise, the verdict shall be that he is guilty of the act or acts in question, and judgment shall be rendered that he be ousted and excluded therefrom and that the relator recover his costs.

#### **§ 16-3509. Usurping corporate franchise; judgment**

Where a quo warranto proceeding is against persons acting as a corporation without being legally incorporated, the judgment against the defendants shall be that they be perpetually restrained and enjoined from the commission or continuance of the acts complained of.

#### **§ 16-3510. Proceedings against corporate directors and trustees; judgment and order; enforcement**

Where a quo warranto proceeding is against a director or trustee of a corporation and the court finds that at his election either illegal votes were received or legal votes rejected, or both, sufficient to change the result if the error is corrected, the court may render judgment that the defendant be ousted, and that the relator, if entitled to be declared elected, be admitted to the office, and the court may issue an order to the proper parties, being officers or members of the corporation, to admit him to the office. The judgment may require the defendant to deliver to the relator all books, papers, and other things in his custody or control pertaining to the office, and obedience to judgment may be enforced by attachment.

#### **§ 16-3511. Recovery of damages from usurper; limitation**

At any time within a year after a judgment in a quo warranto proceeding, the relator may bring an action against the party ousted and recover the damages sustained by the relator by reason of the ousted party's usurpation of the office to which the relator was entitled.

### **CHAPTER 37—REPLEVIN**

#### **SUBCHAPTER I—GENERAL PROVISIONS**

Sec.

16-3701. Demand prior to action; costs.

16-3702. Form of complaint.

16-3703. Affidavit; contents.

16-3704. Undertaking to abide judgment of the court.

16-3705. Failure of officer to obtain possession; procedure.

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16-3708. Motion for return of property; procedure; objection to sufficiency of security.

16-3709. Notice to officer of intention to move for return; duty of officer; time of motion.

16-3710. Determination and measure of plaintiff's damages.

16-3711. Judgment for defendant and determination of damages.

16-3712. Verdict where goods are eloigned.

16-3713. Judgment where goods are eloigned.

## SUBCHAPTER II—REPLEVIN IN COURT OF GENERAL SESSIONS

Sec.

16-3731. Jurisdiction; form of complaint.

16-3732. Affidavit; contents.

16-3733. Undertaking to abide judgment of the court.

16-3734. Failure of officer to obtain possession.

16-3735. Publication against defendant.

16-3736. Default.

16-3737. Retention of property by marshal; sufficiency of undertaking, quashing writ, and return of property.

16-3738. Motion for return of property; procedure; objection to sufficiency of security.

16-3739. Determination and measure of plaintiff's damages.

16-3740. Judgment for defendant and determination of damages.

## Subchapter I—General Provisions

### § 16-3701. Demand prior to action; costs

In an action of replevin brought to recover personal property to which the plaintiff is entitled, that is alleged to have been wrongfully taken by or to be in the possession of and wrongfully detained by the defendant, it is not necessary to demand possession of the property before bringing the action; but the costs of the action may be awarded as the court orders.

### § 16-3702. Form of complaint

A complaint in replevin shall be in the following or equivalent form:

"The plaintiff sues the defendant for (wrongly taking and detaining) (unjustly detaining) the plaintiff's goods and chattels, to-wit: (describe them) of the value of ——— dollars. And the plaintiff claims that the same be taken from the defendant and delivered to him; or, if they are eloiigned, that he may have judgment of their value and all mesne profits and damages, which he estimates at ——— dollars, besides costs."

### § 16-3703. Affidavit; contents

At the time of filing a complaint in replevin, the plaintiff, his agent, or attorney shall file an affidavit stating that—

(1) according to affiant's information and belief, the plaintiff is entitled to recover possession of chattels proposed to be replevied, being the same described in the complaint;

(2) the defendant has seized and detained or detains the chattels; and

(3) the chattels were not subject to the seizure or detention and were not taken upon a writ of replevin between the parties.

### § 16-3704. Undertaking to abide judgment of the court

At the time of filing a complaint in replevin, the plaintiff shall enter into an undertaking by himself or his agent with surety, approved by the clerk, to abide by and perform the judgment of the court.

### § 16-3705. Failure of officer to obtain possession; procedure

When the officer's return of a writ of replevin issued pursuant to this subchapter is that he has served the defendant with copies of the complaint, affidavit, and summons, but that he could not obtain possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the property and damages for detention, or he may renew the writ in order to obtain possession of the goods and chattels themselves.

**§ 16-3706. Publication against defendant**

When the officer's return of a writ of replevin is that he has taken possession of the goods and chattels sued for, but indicates that personal service on the defendant could not be made, the court, subject to the provisions of section 13-340 as to mailing notice, may order that the defendant appear to the action by a fixed day. The plaintiff shall cause notice of the order to be given by publication in a newspaper published in the District at least three times, the first publication to be at least twenty days before the day fixed for the defendant's appearance.

**§ 16-3707. Default**

If, after notice as provided by section 16-3706, the defendant fails to appear, the court may proceed as in case of default after personal service.

**§ 16-3708. Motion for return of property; procedure; objection to sufficiency of security**

(a) On the taking possession of the goods and chattels by the marshal by virtue of a writ of replevin, the defendant may, on one day's notice to the plaintiff or his attorney, move for a return of the property to his possession. Thereupon, the court may inquire into the circumstances and manner of the defendant's obtaining possession of the property, and, if it seems just, may order the property to be returned to the possession of the defendant, to abide the final judgment in the action. The court may require the defendant to enter into an undertaking with surety or sureties, similar to that required of the plaintiff upon the commencement of the action. In such case, the court shall render judgment against the surety or sureties, as well as against the defendant.

(b) When it appears that the possession of the property was forcibly or fraudulently obtained by the defendant, or that the possession, being first in the plaintiff, was procured or retained by the defendant without authority from the plaintiff, the court may refuse to order the return of the property to the possession of the defendant. The defendant may also, on similar notice, object to the sufficiency of the security in the undertaking of the plaintiff, and the court may require additional security, in default of which the property shall be returned to the defendant, but the action may proceed as if the property had not been taken.

**§ 16-3709. Notice to officer of intention to move for return; duty of officer; time of motion**

If the defendant in an action of replevin notifies the officer taking possession of the property, in writing, of his intention to make either of the motions specified by section 16-3708, the officer shall retain possession of the property until the motion is disposed of, if the motion is filed and notice given, as provided by section 16-3708, to the plaintiff or his attorney, within two days thereafter.

**§ 16-3710. Determination and measure of plaintiff's damages**

Whether, in an action of replevin, the defendant answers and the issue thereon joined is found against him, or judgment is rendered against him on proper motion under rules of court, or he makes default after personal service or publication, the plaintiff's damages shall be ascertained by the jury trying the issue, where one is joined, or by a jury of inquest, where jury trial had been waived or there is no issue of fact, and the damages shall be the full value of the goods, if eloigned by the defendant, including, in every case, the loss sustained by the plaintiff by reason of the detention, and the judgment shall be rendered for the plaintiff accordingly.



**§ 16-3711. Judgment for defendant and determination of damages**

When, in an action of replevin, the issue is found for the defendant, or the plaintiff dismisses or fails to prosecute his suit, or judgment is rendered against the plaintiff on proper motion under rules of court, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant with damages for their detention, or, on failure, that the defendant recover against the plaintiff and his surety the damages sustained by him. The damages shall be assessed by the jury trying the issue; or, where jury trial had been waived, or judgment is rendered against the plaintiff prior to trial on proper motion under rules of court, or he dismisses or fails to prosecute his suit, by a jury of inquest.

**§ 16-3712. Verdict where goods are eloigned**

If the defendant in an action of replevin has eloigned the things sued for, the court may instruct the jury, if they find for the plaintiff, to assess such damages as may compel the defendant to return the things.

**§ 16-3713. Judgment where goods are eloigned**

The judgment in a case where the defendant has eloigned the goods sued for, shall be that the plaintiff recover against the defendant the value of the goods as found and the damages so assessed, to be discharged by the return of the things, within ten days after the judgment, with damages for detention, which the jury shall also assess.

**Subchapter II—Replevin in Court of General Sessions****§ 16-3731. Jurisdiction; form of complaint**

The District of Columbia Court of General Sessions may issue a writ of replevin when a plaintiff files a complaint in replevin, in the following or an equivalent form:

"The plaintiff sues the defendant for wrongfully taking and detaining (or wrongfully detaining) the plaintiff's, goods and chattels, to wit (here describe them), of the value of \_\_\_\_\_ dollars. And the plaintiff claims that the same may be taken and delivered to him, or, if they are eloigned, that he may have judgment for their value and all mesne profits and damages, which he estimates at \_\_\_\_\_ dollars, besides costs."

**§ 16-3732. Affidavits; contents**

At the time of filing a complaint pursuant to section 16-3731, the plaintiff, his agent, or attorney shall file an affidavit stating that—

(1) according to affiant's information and belief, the plaintiff is entitled to recover possession of the chattels described in the complaint;

(2) the defendant has seized and detains or detains the chattels;

(3) the chattels were not subject to the seizure or detention, and were not taken under a writ of replevin between the parties; and

(4) the chattels are not of the value of more than \$10,000.

**§ 16-3733. Undertaking to abide judgment of the Court**

At the time of filing a complaint pursuant to section 16-3731, the plaintiff shall enter into an undertaking, with surety approved by the court, submitting to the jurisdiction of the court, to abide by and perform the judgment of the court.

**§ 16-3734. Failure of officer to obtain possession**

When the officer's return of a writ of replevin issued pursuant to this subchapter is that he has served the defendant with copies of the complaint, affidavit, and summons, but that he could not obtain possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the property and damages for the detention, not to exceed in all \$10,000 or he may renew the writ, in order to obtain possession of the goods and chattels themselves.

**§ 16-3735. Publication against defendant**

When the officer's return of a writ of replevin issued pursuant to this subchapter is that he has taken possession of the goods and chattels sued for, but that the defendant is not to be found, the court, subject to section 13-340 as to mailing notice, may order that the defendant appear to the action by a fixed day, and cause notice of the order to be given by publication in a newspaper published in the District at least three times, the first publication to be at least twenty days before the day fixed for defendant's appearance.

**§ 16-3736. Default**

If, after notice as provided by section 16-3735, the defendant fails to appear, the court may proceed, as in the case of default after personal service, to render judgment for the property in favor of the plaintiff.

**§ 16-3737. Retention of property by marshal; sufficiency of undertaking, quashing writ, and return of property**

Property taken by the marshal under a writ of replevin issued pursuant to this subchapter shall be retained by him for three days, exclusive of Sundays and legal holidays, before delivering it to the plaintiff, in order that the defendant or other persons claiming an interest in the property may present objections to the court to the sufficiency of the security on the undertaking or the jurisdiction of the court. If the court deems the undertaking insufficient, it may direct the marshal to retain the property for a further short time, to be designated by the court, until an undertaking to be approved by it is filed, in default of which the marshal shall return the property to the person from whom it was taken. If it appears to the court that the property is of the value of over \$10,000, the court shall quash the writ of replevin and direct the property to be returned to the party out of whose possession it was taken.

**§ 16-3738. Motion for return of property; procedure; objection to sufficiency of security**

Section 16-3708 is also applicable to actions of replevin brought pursuant to this subchapter.

**§ 16-3739. Determination and measure of plaintiff's damages**

Whether, in an action of replevin pursuant to this subchapter, the defendant answers and the issue thereon joined is found against him, or judgment is rendered against him on proper motion under rules of court, or he makes default after personal service, the plaintiff's damages shall be the full value of the goods, not to exceed \$10,000, if elojined by the defendant, and damages for the detention thereof, and judgment shall be rendered for the plaintiff accordingly.

**§ 16-3740. Judgment for defendant and determination of damages**

If the issue in an action of replevin pursuant to this subchapter is found for the defendant, or the plaintiff dismisses or fails to prosecute his suit, or judgment is rendered against plaintiff on proper motion under rules of court, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant, with damages for their detention, or, on failure, that the defendant recover from the plaintiff and his surety the damages sustained by him.

## CHAPTER 39—SMALL CLAIMS AND CONCILIATION PROCEDURE IN COURT OF GENERAL SESSIONS

### Sec.

- 16-3901. Practice; applicability of other laws and rules of court.
- 16-3902. Commencement of action; form of statement; preparation by clerk; notice and service; costs; default; memorandum to plaintiff.
- 16-3903. Fees and costs; waiver.
- 16-3904. Set-off or counterclaim; pleading; retention of jurisdiction.
- 16-3905. Jury trial; demand; assignment to regular branch.
- 16-3906. Pre-trial settlement; trial; procedure; default; dismissal or nonsuit; other disposition.
- 16-3907. Judgment; stay; installment payments; enforcement.
- 16-3908. Judgment for wages; oral examination; payment.
- 16-3909. Award of costs.
- 16-3910. Other rights of judgment creditor.

### § 16-3901. Practice; applicability of other laws and rules of court

All provisions of law relating to the District of Columbia Court of General Sessions and the rules of court apply to the practice in the Small Claims and Conciliation Branch of the court as far as they may be made applicable and are not in conflict with this chapter or chapter 13 of Title 11, or with the rules prescribed pursuant to section 13-101(c). In case of conflict, this chapter and chapter 13 of Title 11 and the rules so prescribed control.

### § 16-3902. Commencement of action; form of statement; preparation by clerk; notice and service; costs; default; memorandum to plaintiff

(a) Actions shall be commenced in the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions by the filing of a statement of claim, in concise form and free of technicalities. The plaintiff or his agent shall verify the statement of claim by oath or affirmation in the form herein provided, or its equivalent, and shall affix his signature thereto. The clerk of the Branch shall, at the request of an individual, prepare the statement of claim and other papers required to be filed in an action in the Branch, but his services are not available to a corporation, partnership, or association, in the preparation of the statements or other papers. A copy of the statement of claim and verification shall be made a part of the notice to be served upon the defendant named therein. The mode of service shall be by the United States marshal, as provided by law, or by registered mail or by certified mail with return receipt, or by a person not a party to or otherwise interested in the action especially appointed by the judge for that purpose.

(b) When notice is to be served by registered mail or by certified mail, the clerk shall inclose a copy of the statement of claim, verification, and notice in an envelope addressed to the defendant, prepay the postage with funds obtained from plaintiff, and mail the papers forthwith, noting on the records the day and hour of mailing. When the receipt is returned, the clerk shall attach it to the original statement of claim, and it constitutes prima facie evidence of service upon the defendant.

(c) When notice is served by a private individual, as provided by subsection (a) of this section, he shall make proof of service by affidavit before the clerk, showing the time and place of the service.

(d) When notice is served by the marshal, or by registered mail or by certified mail, the actual cost of service is taxable as costs. When notice is served by an individual, the cost of service, if any, is not taxable as costs.

(e) The statement of claim, verification, and notice shall be in the following or equivalent form:

## DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

## SMALL CLAIMS AND CONCILIATION BRANCH

(Location of room in courthouse)

(Address of court)

Washington, D.C.

_____	} No. _____
Plaintiff	
_____	
Address	
_____	
vs.	
_____	
Defendant	

## STATEMENT OF CLAIM

(Here the plaintiff, or at his request the clerk, will insert a statement of the plaintiff's claim, and the original, to be filed with the clerk, may, if action is on a contract, express or implied, be verified by the plaintiff or his agent, as follows:)

DISTRICT OF COLUMBIA, ss:

\_\_\_\_\_ being first duly sworn on oath says the foregoing is a just and true statement of the amount owing by defendant to plaintiff, exclusive of all set-offs and just grounds of defense.

\_\_\_\_\_  
Plaintiff (or agent)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

\_\_\_\_\_  
Clerk (or notary public)

## NOTICE

To: \_\_\_\_\_

Defendant

\_\_\_\_\_  
Home address\_\_\_\_\_  
Business address

You are hereby notified that \_\_\_\_\_ has made a claim and is requesting judgment against you in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), as shown by the foregoing statement. The Court will hold a hearing upon this claim on \_\_\_\_\_ at \_\_\_\_\_ m. in the Small Claims and Conciliation Branch (address of Court).

You are required to be present at the hearing in order to avoid a judgment by default.

If you have witnesses, books, receipts, or other writings bearing on this claim, you should bring them with you at the time of the hearing.

If you wish to have witnesses summoned, see the clerk at once for assistance.

If you admit the claim, but desire additional time to pay, you must come to the hearing in person and state the circumstances to the court.

You may come with or without an attorney.

[SEAL]

\_\_\_\_\_  
Clerk of the Small Claims and Conciliation Branch, Court of General Sessions.



(f) The foregoing verification entitles the plaintiff to a judgment by default, without further proof, upon failure of defendant to appear, if the claim of the plaintiff is for a liquidated amount. If the amount is unliquidated, the plaintiff shall be required to present proof of his claim.

(g) The clerk shall furnish the plaintiff with a memorandum of the day and hour set for the hearing, not less than 5 nor more than 15 days from the date of the filing of the action. Where, in a case controlled by another statute, a greater or lesser time for hearing is specified by the other statute, that specified time is controlling. All actions filed in the Branch shall be made returnable therein.

#### **§ 16-3903. Fees and costs; waiver**

The fee for issuing summons and copies, trial, judgment, and satisfaction in an action in the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions shall be not more than \$1. Other fees shall be as the court prescribes. The judge sitting in the Branch may waive the prepayment of costs or the payment of costs accruing during the action upon the sworn statement of the plaintiff or upon other satisfactory evidence of his inability to pay the costs. When costs are so waived the notation to be made on the records of the Branch shall be "Prepayment of costs waived," or "Costs waived." The term "pauper" or "in forma pauperis" may not be employed in the Branch. If a party fails to pay accrued costs, though able to do so, the judge may deny him the right to file a new case in the Branch while the costs remain unpaid, and likewise deny him the right to proceed further in any case pending in the Branch.

#### **§ 16-3904. Set-off or counterclaim; pleading; retention of jurisdiction**

If the defendant, in an action pursuant to this chapter, asserts a set-off or counterclaim, the judge may require a formal plea of set-off to be filed, or may waive the requirement. If the plaintiff requires time to prepare his defense against the counterclaim or set-off, the judge may continue the case for that purpose. When the set-off or counterclaim is for more than the jurisdictional limit of the Small Claims and Conciliation Branch as provided by section 11-1341 but within the jurisdictional limit of the court as provided by section 11-961, the action shall nevertheless remain in the Branch and be tried therein in its entirety.

#### **§ 16-3905. Jury trial; demand; assignment to regular branch**

In a case filed or pending in the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions in which a party entitled to a trial by jury files a demand therefor, the case shall be assigned to and tried in the regular branch of the civil division of the Court under the procedure provided for jury trials.

#### **§ 16-3906. Pre-trial settlement; trial; procedure; default; dismissal or nonsuit; other disposition**

(a) On the return day specified by subsection (g) of section 16-3902, or at such later time as the judge sets, the trial shall be had. Immediately prior to the trial of a case pursuant to this chapter, the judge shall make an earnest effort to settle the controversy by conciliation. If he fails to induce the parties to settle their differences without a trial, he shall proceed with the hearing on the merits pursuant to subsection (b) of this section.

(b) The parties and witnesses shall be sworn. The judge shall conduct the trial in such manner as to do substantial justice between the parties according to the rules of substantive law, and is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications.

(c) If the defendant fails to appear, judgment shall be entered for the plaintiff by default as provided by section 16-3902(f), or under rules of court, or on ex-parte proof. If the plaintiff fails to appear, the action may be dismissed for want of prosecution, or a nonsuit may be ordered, or defendant may proceed to a trial on the merits, or the case may be continued or returned to the files for further proceedings on a later date, as the judge directs. If both parties fail to appear, the judge may return the case to the files, or order the action dismissed for want of prosecution, or make any other just and proper disposition thereof, as justice requires.

#### **§ 16-3907. Judgment; stay; installment payments; enforcement**

When judgment is to be rendered in an action pursuant to this chapter and the party against whom it is to be entered requests it, the judge shall inquire fully into his earnings and financial status and may stay the entry of judgment, and stay execution, except in cases involving wage claims, and order partial payments in such amounts, over such periods, and upon such terms, as seems just in the circumstances and as will assure a definite and steady reduction of the judgment until it is finally and completely satisfied. Upon a showing that the party has failed to meet an instalment payment without just excuse, the stay of execution shall be vacated. When a stay of execution has not been ordered or when a stay of execution has been vacated as provided by this section, the party in whose favor the judgment has been entered may avail himself of all remedies otherwise available in the District of Columbia Court of General Sessions for the enforcement of the judgment.

#### **§ 16-3908. Judgment for wages; oral examination; payment**

When a judgment rendered in an action pursuant to this chapter is founded in whole or in part on a claim for wages or personal services, the judge shall, upon motion of the party obtaining judgment, order the appearance of the party against whom the judgment has been entered, but not more often than once each week for four weeks, for oral examination under oath as to his financial status and his ability to pay the judgment, and the judge shall make such supplementary orders as seems just and proper to effectuate the payment of the judgment upon reasonable terms.

#### **§ 16-3909. Award of costs**

In an action pursuant to this chapter, the award of costs is in the discretion of the judge, who may include therein the reasonable cost of bonds and undertakings, and other reasonable expenses incident to the action, incurred by either party.

#### **§ 16-3910. Other rights of judgment creditor**

Except as otherwise provided by this chapter, or in the rules prescribed pursuant to section 13-101(c), a party obtaining a judgment in the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions is entitled to the same remedies, processes, costs, and benefits as are given or inure to other judgment creditors in the court.

### **CHAPTER 41—SURETIES**

Sec.

16-4101. Relief from suretyship; counter security, or bond; removal of officer or fiduciary from office.

16-4102. Subrogation of surety satisfying judgment.

**§ 16-4101. Relief from suretyship; counter security, or bond; removal of officer or fiduciary from office**

When the surety, or his personal representatives, of an officer, commissioner, receiver, or trustee appointed under a decree of court and required to give bond apprehends himself to be in danger of suffering from the suretyship, and petitions the court to be relieved from the suretyship, or that the court require the officer, commissioner, receiver, or trustee to give counter security, the court may, on reasonable notice to the trustee or other officer, require him to give counter security or to give a new bond in the same manner as if none had been given by him. If he fails to do so by a day named, the court may remove him from his office or trust and appoint a new trustee or other officer in his stead to complete the duties of his office or trust, and may thereupon, order him to deliver over to his successor all the trust property, including moneys, books, papers, bonds, notes, and evidences of debt, and may compel compliance with the order by attachment.

**§ 16-4102. Subrogation of surety satisfying judgment**

Where a person recovers a judgment or money decree against the principal debtor and a surety or indorser, and the judgment is satisfied by the surety or indorser, the latter may have the judgment or money decree entered by the clerk to his use and have execution in his own name against the principal, and where a judgment or money decree is rendered against several sureties and one of them satisfies the whole debt, the surety satisfying the judgment may have the judgment or decree entered to his use, have execution against each of the other sureties in the judgment or decree for a proportionate part of the debt so paid by him. On the motion of the surety so paying the entire debt and notice to the other sureties, the court may determine for what amount execution shall issue against each of the other sureties.

## TITLE 17—REVIEW

CHAPTER

Sec.

1. UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT-----	17-101
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### CHAPTER 1—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Sec.

17-101. Appeal from District of Columbia Court of Appeals; filing, form and contents of petition.
17-102. Procedure, generally, on appeal from District of Columbia Court of Appeals; record; rules of court.
17-103. Time for petitioning for allowance of appeal from District of Columbia Court of Appeals.
17-104. Determination of appeal from District of Columbia Court of Appeals.

**§ 17-101. Appeal from District of Columbia Court of Appeals; filing, form and contents of petition**

The petition for the allowance of an appeal from a judgment of the District of Columbia Court of Appeals shall be in writing and shall be filed with the clerk of the United States Court of Appeals for the District of Columbia Circuit. The contents of the petition shall conform with requirements that the United States Court of Appeals prescribes by rule.

**§ 17-102. Procedure, generally, on appeal from District of Columbia Court of Appeals; record; rules of court**

The United States Court of Appeals for the District of Columbia Circuit may prescribe rules governing the:

- (1) practice and procedure on petitions specified by section 17-101; and

(2) preparation of, and time for filing, the transcript of the record in such cases—  
and may generally regulate all matters relating to appeals in such cases.

**§ 17-103. Time for petitioning for allowance of appeal from District of Columbia Court of Appeals**

Petitions for the allowance of appeals from judgments of the District of Columbia Court of Appeals shall, in each case, be filed, as provided by this chapter, within ten days after entry of the judgment from which an appeal is desired.

**§ 17-104. Determination of appeal from District of Columbia Court of Appeals**

If the United States Court of Appeals for the District of Columbia Circuit allows an appeal pursuant to section 11-321 and this chapter, it shall review the record on appeal, and shall affirm, modify, vacate, set aside, or reverse the judgment, and may remand the cause and direct the entry of such appropriate judgment or order, or require such further proceedings to be had, as is just in the circumstances.

**CHAPTER 3—DISTRICT OF COLUMBIA COURT OF APPEALS**

**Sec.**

17-301. Applications for allowance of appeals from certain Court of General Sessions judgments; hearing; effect of denial.

17-302. Regulations of appeals; record; costs.

17-303. Appeals from administrative orders and decisions; petition; record; procedure.

17-304. Stay upon application for review of, or pending appeal from, administrative order or decision.

17-305. Scope of review.

17-306. Determination of appeals.

17-307. Time for taking or applying for allowance of appeals.

**§ 17-301. Applications for allowance of appeals from certain Court of General Sessions judgments; hearing; effect of denial**

(a) The application for the allowance of an appeal from a judgment of the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions, or from a judgment of the criminal division of that court where the penalty imposed is less than \$50, provided for by section 11-741(c), shall be on a standard form, in simple language, prescribed by the Court of General Sessions. If the appellant is not represented by counsel, the clerk of the Court of General Sessions shall prepare the application in his behalf.

(b) The application provided for by subsection (a) of this section shall be filed in the District of Columbia Court of Appeals within the time limit prescribed by section 17-307(b), and shall be promptly presented by the clerk of that court to the chief judge and the associate judges thereof for their consideration. When any one of them is of the opinion that the appeal should be allowed, the appeal shall be recorded as granted, and the case set down for hearing on appeal. It shall be given a preferred status on the calendar, and heard in the same manner as other appeals in the court. When all the judges are of the opinion that an appeal should be denied, the denial shall stand as an affirmation of the judgment of the trial court, and there shall be no further appeal.

**§ 17-302. Regulation of appeals; record; costs**

The District of Columbia Court of Appeals may regulate, generally, all matters relating to appeals, whether in the District of Columbia Court of Appeals or in the court below. It may prescribe by rules what



part of the proceedings in the court below shall constitute the record on appeal, and may require that the original papers, instead of copies thereof, be sent to it. It may not require that the record or briefs on appeal be printed. If they are printed, the cost of printing may not be taxed as costs in the case.

**§ 17-303. Appeals from administrative orders and decisions; petition; record; procedure**

(a) An appeal from an order or decision of an administrative agency, as provided for by section 11-742, is commenced by filing in the District of Columbia Court of Appeals, within the time prescribed pursuant to section 17-307(a), the written petition for review provided by section 11-742(c). Upon the filing of the petition, the clerk of the court shall forthwith, by mail, serve a copy thereof upon the agency affected by the petition. After receipt of the copy of the petition, the agency shall certify and file in the court the original papers comprising the record or any supplementary record, or certified copies of the papers. Upon the filing of the papers, the clerk shall immediately notify the petitioner of the filing.

(b) The District of Columbia Court of Appeals may by rule prescribe:

(1) the form and contents of the petition provided for by this section; and

(2) the time within which the agency affected by the petition shall certify and file the original papers or certified copies thereof as provided by this section—

and regulate generally all matters relating to proceedings on an appeal referred to in this section.

**§ 17-304. Stay upon application for review of, or pending appeal from, administrative order or decision**

(a) An application for review, or pendency of an appeal, provided for by section 17-303, does not operate as a stay of the order or decision from which the appeal is taken:

(1) in any case where, under existing law, a stay may not be granted; or

(2) in any other case unless so ordered by the Board of Commissioners of the District of Columbia, or by the District of Columbia Court of Appeals as provided by subsection (b) of this section.

(b) For good cause shown, and upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the court may take appropriate and necessary action to preserve the status or rights pending conclusion of the review proceedings provided for by section 17-303.

**§ 17-305. Scope of review**

(a) In considering an order or judgment of a lower court or any of its branches, brought before it for review, the District of Columbia Court of Appeals shall review the record on appeal. When the issues of fact were tried by jury, the court shall review the case only as to matters of law. When the case was tried without a jury, the court may review both as to the facts and the law, but the judgment may not be set aside except for errors of law unless it appears that the judgment is plainly wrong or without evidence to support it.

(b) The District of Columbia Court of Appeals shall hear and determine appeals from orders or decisions of administrative agencies upon the record of proceedings before the appropriate agency to be certified to the court under rules or instructions as the court from time to time prescribes. In such cases, it shall limit its review to those issues

of law or fact that are subject to review on appeal under applicable provisions of existing law. If there is no statutory limitation, the court shall determine the appeal by rules of law which define the scope and limitations of review of administrative proceedings. Under the rules, by way of elaboration and not limitation, the court may:

(1) as far as necessary to decision and where presented to decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action; and

(2) hold unlawful and set aside agency action findings and conclusions found to be:

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence or facts in the record of the proceedings before the court; or

(F) unwarranted by the facts.

In making the determinations as provided by this subsection, the court shall take account of prejudicial error.

#### § 17-306. Determination of appeals

The District of Columbia Court of Appeals may affirm, modify, vacate, set aside or reverse any order or judgment of a court or any branch thereof, or any order or decision of an administration agency, lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate order, judgment, or decision, or require such further proceedings to be had, as is just in the circumstances.

#### § 17-307. Time for taking or applying for allowance of appeals

(a) Except as provided by subsection (b) of this section, the time during which an appeal may be taken pursuant to section 11-741 or 11-742 may be fixed by rules of the District of Columbia Court of Appeals.

(b) Applications for the allowance of appeals from judgments of the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions, and from judgments in the criminal division of that court where the penalty imposed is less than \$50, specified by section 11-741(c), shall, in each case, be filed in the District of Columbia Court of Appeals within three days from the date of judgment.

SEC. 2. The seventh sentence of section 38 of the Act of February 27, 1929 (ch. 352, 45 Stat. 1338; D.C. Code, 1961 ed., sec. 2-129), as amended by section 32(b) of the Act of June 25, 1948, and by section 127 of the Act of May 24, 1949 (ch. 139, 63 Stat. 107), is amended to read as follows: "On the petition of an applicant to whom a license or registration has been denied by the commission by virtue of this section, the action of the commission may be reviewed by the District of Columbia Court of Appeals in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

SEC. 3. Section 7 of the Act of March 2, 1929 (ch. 540, 45 Stat. 1520; D.C. Code, 1961 ed., sec. 2-406), as amended by section 32(b) of the Act of June 25, 1948, and by section 127 of the Act of May 24, 1949, is amended (1) by striking out the colon preceding the second

proviso, and in lieu thereof inserting a period; and (2) by striking out the second proviso and in lieu thereof inserting the following: "On the petition of an applicant to whom registration or reregistration has been denied by the nurses' examining board, the action of the board may be reviewed by the District of Columbia Court of Appeals in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

SEC. 4. (a) The fourth paragraph of section 7 of the Act of May 7, 1906 (ch. 2084, 34 Stat. 177; D.C. Code, 1961 ed., sec. 2-606), as amended by section 3 of the Act of March 4, 1927, and by section 32(a) (b) of the Act of June 25, 1948, as amended by section 127 of the Act approved May 24, 1949, is amended to read as follows:

"The board shall make a written report of its findings after such hearing, which report, with a transcript of the entire record of the proceedings, shall be filed with the Commissioners of the District of Columbia, and, if the board's finding is adverse to the person seeking reissuance of his license or permit, the license or permit shall stand revoked and annulled at the expiration of thirty days from the filing of the report, unless a petition for review is filed in the District of Columbia Court of Appeals, and a stay is granted, in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

(b) Section 7 of the Act of May 7, 1906 (ch. 2084, 34 Stat. 177; D.C. Code, 1961 ed., sec. 2-606), is further amended by striking out the fifth paragraph thereof.

SEC. 5. The third sentence of section 10 of the Act of February 1, 1907 (ch. 442, 34 Stat. 873; D.C. Code, 1961 ed., sec. 2-810), is amended to read as follows: "Appeal from the decision of the board may be taken to the District of Columbia Court of Appeals, as provided by section 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code. The Commissioners of the District of Columbia, the board of review, and the board of examiners in veterinary medicine shall not, nor shall any of them, be required to pay costs, or give bond or security on appeal, or other proceeding in any court of the District of Columbia growing out of any official duty imposed on them, or any of them, by this Act."

SEC. 6. Section 28 of the Act of December 13, 1924 (ch. 9, 43 Stat. 717; D.C. Code, 1961 ed., sec. 2-1028), as amended by section 1 of the Act of May 29, 1928, is amended to read as follows:

"SEC. 28. The proceedings for the annulment of registration, that is, the revocation of a certificate, shall be begun by filing written charges against the accused with the Board of Examiners and Registrars of Architects by the Board itself or by a complainant. A copy of the charges, together with a notice of the time and place of hearing, shall be served on the accused at least thirty calendar days in advance of the hearing, which shall be postponed if necessary to give the requisite notice. Where personal services can not be made within the District of Columbia, service may be made by publication or personal service in accordance with such rules as the Board adopts, following generally and in principle the provisions of sections 13-336 to 13-338 and 13-340 of the District of Columbia Code. At the hearing, the accused may be represented by counsel, may introduce evidence, and may examine and cross-examine witnesses. The secretary of the Board may administer oaths. The Board shall make a written report of its findings, which report, with a transcript of the entire record of the proceedings, shall be filed with the Commissioners of the District of Columbia, and, if the Board's finding is adverse to the accused, his certificate of registration shall stand revoked and annulled at the expiration of thirty days from the filing of the report, unless a peti-

tion for review is filed in the District of Columbia Court of Appeals, and a stay is granted, in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code.

SEC. 7. The second paragraph of section 10 of the Act of June 7, 1938 (ch. 322, 52 Stat. 622; D.C. Code, 1961 ed., sec. 2-1110), as amended by section 32(b) of the Act of June 25, 1948, as amended by section 127 of the Act of May 24, 1949, is amended to read as follows:

"An appeal may be taken from the action of the Board to the District of Columbia Court of Appeals in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

SEC. 8. Section 13(a) of the Act of March 3, 1925 (ch. 443, 43 Stat. 1125; D.C. Code, 1961 ed., sec. 40-302), as amended by section 3 of the Act of July 3, 1926, sections 2 and 4 of the Act of February 27, 1931, and the Act of May 15, 1936, is amended (1) by striking out the fourth proviso in the first sentence (being the last proviso in that sentence); (2) by striking out the colon preceding that proviso, and in lieu thereof inserting a period; (3) by striking out the second sentence, and in lieu thereof inserting: "An individual whose permit is denied, suspended, or revoked by the commissioners or their agent may, if application for a review by the commissioners of an order for revocation or suspension is not filed, or if an application for review by them is filed, after the commissioners' decision on the review, petition the District of Columbia Court of Appeals for a review of the order or decision in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

SEC. 9. (a) Section 9 of the Act of August 25, 1937 (ch. 760, 50 Stat. 794; D.C. Code, 1961 ed., sec. 45-1409), as amended by section 32(b) of the Act of June 25, 1948, as amended by section 127 of the Act of May 24, 1949; and as further amended by the Act of June 11, 1960 (Pub. L. 86-507, § 1(50), 74 Stat. 203), is amended by striking out the ninth and tenth sentences of the first paragraph thereof, and in lieu thereof inserting the following: "A final decision or determination of the Commission denying, suspending, or revoking a license may be reviewed in the District of Columbia Court of Appeals in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

(b) Section 9 of the Act of August 25, 1937 (ch. 760, 50 Stat. 794; D.C. Code, 1961 ed., sec. 45-1409), as amended, is further amended by striking out the second paragraph thereof.

SEC. 10. The first paragraph of paragraph 42 of section 7 of the Act of July 1, 1902 (ch. 1352, 32 Stat. 628; D.C. Code, 1961 ed., sec. 47-2101, first par.), as amended by the Act of July 1, 1932, is amended (1) by striking out the colon preceding the proviso therein and the sentence following immediately thereafter, and in lieu thereof inserting a period, and (2) by striking out the proviso therein, and in lieu thereof inserting: "A person whose application for a license is denied, or whose license is revoked or suspended by the commissioners may obtain a review of the action of the commissioners in the District of Columbia Court of Appeals in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code."

SEC. 11. (a) Section 1 of the Act of July 16, 1912 (ch. 235, 37 Stat. 192; D.C. Code, 1961 ed., secs. 11-755c, 22-1101, 22-2722), as amended by section 32(b) of the Act of June 25, 1948, as amended by section 127 of the Act of May 24, 1949, is amended to read as follows:

"Whoever is convicted of an affray or of keeping a bawdy or disorderly house in the District shall be fined not more than \$500 or imprisoned not more than one year, or both."



(b) Section 2 of the Act of July 16, 1912 (ch. 235, 37 Stat. 193, D.C. Code 1961 ed., secs. 11-755d, 22-507), as amended by section 32(b) of the Act of June 25, 1948, as amended by section 127 of the Act of May 24, 1949; and as amended by section 212 of the Act approved June 29, 1953, is amended to read as follows:

"SEC. 2. Whoever is convicted in the District of threats to do bodily harm shall be fined not more than \$500 or imprisoned not more than six months, or both, and, in addition thereto or in lieu thereof, may be required to give bond to keep the peace for a period not exceeding one year."

SEC. 12. Section 5 of the Act of June 21, 1870 (ch. 135, 16 Stat. 158; D.C. Code, 1961 ed., sec. 32-205), is amended to read as follows:

"SEC. 5. Members of the Metropolitan Police force of the District of Columbia, upon application of a member of the Washington Humane Society who has viewed a violation of a law or regulation of the District for the prevention of cruelty to animals, shall arrest the offending party without a warrant, and take him before the District of Columbia Court of General Sessions for trial. Proper evidence of membership to a police officer shall be the exhibition of a badge or certificate of membership in the Society."

SEC. 13. Section 93 of the Act of March 3, 1901 (ch. 854, 31 Stat. 1203; D.C. Code, 1961 ed., secs. 16-1301, 21-213), as amended by the Act of June 30, 1902 (ch. 1329, 32 Stat. 523), is amended to read as follows:

"SEC. 93. If a contract has been made for the sale of lands, tenements, or hereditaments by a person or persons interested therein jointly or in common with an infant, idiot, or person non compos mentis, for and in behalf of all the persons so interested, which the court, upon a hearing and examination of all the circumstances, considers to be for the interest and advantage both of the infant, idiot, or person non compos mentis and of the other person or persons interested therein to be confirmed, the court may confirm the contract and order a deed to be executed according thereto; and all sales and deeds made in pursuance of the order shall be sufficient in law to transfer the estate and interest of the infant, idiot, or person non compos mentis in the property."

SEC. 14. If any part of Part II of the District of Columbia Code, as set out in section 1 of this Act, is held invalid, the remainder of Part II shall not be affected thereby.

SEC. 15. An inference of a legislative construction may not be drawn by reason of the subchapter, chapter, or title in Part II of the District of Columbia Code, as set out in section 1 of this Act, in which any section is placed, or by reason of the catchlines used.

SEC. 16. Chapter 11 of Title 11 of the District of Columbia Code, as set out in section 1 of this Act, does not divest the United States District Court for the District of Columbia of jurisdiction and power to consider, and to enter and enforce judgments, orders, and decrees in any action, application, or proceeding, as described in section 11-1141 of the Code, filed in the District Court prior to the effective date of section 105 of the Act of April 11, 1956 (ch. 204, 70 Stat. 112), to the same extent as if chapter 11 had not been enacted.

SEC. 17. (a) Part II of the District of Columbia Code, set out in section 1 of this Act, with respect to the organization of each of the several courts and their divisions and branches therein provided for,

is a continuation of existing law, and the tenure of the judges, officers, and employees thereof, in office on January 1, 1964, is not affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of Part II, as set out in section 1 of this Act, pursuant to his prior appointment. Loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of those courts on the effective date this Act shall not result from its enactment.

(b) The judge of the juvenile court of the District of Columbia who, on March 9, 1962, was occupying the position of judge created by the Juvenile Court Act of the District of Columbia, approved June 1, 1938, shall continue in office and shall be deemed to be occupying one of the three positions of judge provided for by section 19 of that Act, as amended by the first section of Public Law 87-413, until the term for which he was appointed expires and his successor is duly appointed and qualified. He shall be entitled to compensation in accordance with the provisions of section 19 of the Juvenile Court Act of the District of Columbia as amended by the first section of Public Law 87-413.

52 Stat. 596.

76 Stat. 398.

(c) Wherever in any law of the United States reference is made to the judge of the juvenile court of the District of Columbia the reference shall be construed to mean any judge of that court.

SEC. 18. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Part II, District of Columbia Code, as set out in section 1 of this Act.

Appropriation.

SEC. 19. The following British statutes, heretofore classified to Part II of the District of Columbia Code, 1961 edition, under the authority of section 1 of the Act approved March 3, 1901 (chapter 854, 31 Stat. 1189; D.C. Code 1961 ed., sec. 49-301), have no further force and effect, as such, in the District of Columbia:

(1) 9 Henry III (1225), chapter 8, sections 1, 2, 3, 4 (D.C. Code, 1961 ed., secs. 15-213, 16-2003 to 16-2005);

(2) 13 Edward I (1285), chapter 31 (D.C. Code, 1961 ed., sec. 11-321);

(3) 14 Edward III (1340), chapter 6, section 1 (D.C. Code, 1961 ed., sec. 13-304);

(4) 36 Edward III (1362), chapter 15, section 1 (D.C. Code, 1961 ed., sec. 13-201);

(5) 17 Richard II (1393), chapter 6, section 1 (D.C. Code, 1961 ed., sec. 13-219);

(6) 11 Henry IV (1409), chapter 3, section 1 (D.C. Code, 1961 ed., sec. 13-307);

(7) 9 Henry V (1421), chapter 4, section 1 (D.C. Code, 1961 ed., sec. 13-305);

(8) 4 Henry VI (1425), chapter 3, section 1 (D.C. Code, 1961 ed., sec. 13-306);

(9) 8 Henry VI (1429), chapter 12, sections 2, 4 (D.C. Code, 1961 ed., secs. 13-308 to 13-310);

(10) 8 Henry VI (1429), chapter 15, section 1 (D.C. Code, 1961 ed., sec. 13-311);

(11) 4 Henry VII (1487), chapter 20 (D.C. Code, 1961 ed., sec. 13-220);

(12) 23 Henry VIII (1531), chapter 15, section 1 (D.C. Code, 1961 ed., sec. 11-1517);

(13) 18 Elizabeth (1576), chapter 14, sections 1, 2 (D.C. Code, 1961 ed., sec. 13-314);

(14) 27 Elizabeth (1585), chapter 5, sections 1, 2 (D.C. Code, 1961 ed., secs. 13-206, 13-207);

(15) 4 James I (1606), chapter 3, section 2 (D.C. Code, 1961 ed., sec. 11-1517);

(16) 21 James I (1623), chapter 13, sections 2, 3 (D.C. Code, 1961 ed., sec. 13-315);

(17) 16 Charles II (1664), chapter 7, sections 2, 3 (D.C. Code, 1961 ed., secs. 16-706, 16-707);

(18) 16 and 17 Charles II (1664), chapter 8, sections 1, 2, 5 (D.C. Code, 1961 ed., secs. 13-316, 13-317);

(19) 29 Charles II (1676), chapter 3, sections 14, 15, 16 (D.C. Code, 1961 ed., secs. 15-104, 15-207);

(20) 29 Charles II (1676), chapter 7, section 6 (D.C. Code, 1961 ed., sec. 13-102);

(21) 8 and 9 William and Mary (1697), chapter 11, sections 1, 8 (D.C. Code, 1961 ed., secs. 11-1518, 13-205, 15-111);

(22) 4 Anne (1705), chapter 16, sections 1, 2, 4, 7, 11, 12, 27 (D.C. Code 1961 ed., secs. 13-206, 13-210, 13-212, 13-218, 13-318, 13-319, 16-101);

(23) 6 Anne (1707), chapter 18, sections 1, 2, 3, 4, 5 (D.C. Code, 1961 ed., secs. 16-527 to 16-531);

(24) 9 Anne (1710), chapter 14, sections 1, 2, 4, 5, 8 (D.C. Code, 1961 ed., secs. 16-701 to 16-705);

(25) 9 Anne (1710), chapter 20, section 7 (D.C. Code, 1961 ed., sec. 13-320);

(26) 5 George I (1718), chapter 13, section 1 (D.C. Code, 1961 ed., sec. 13-312);

(27) 4 George II (1731), chapter 26, section 1 (D.C. Code, 1961 ed., sec. 13-202);

(28) 4 George II (1731), chapter 28, sections 2, 3, 4 (D.C. Code, 1961 ed., secs. 16-532 to 16-534);

(29) 6 George II (1733), chapter 14, section 5 (D.C. Code, 1961 ed., sec. 13-203); and

(30) 11 George II (1738), chapter 19, section 12 (D.C. Code, 1961 ed., sec. 16-502).

SEC. 20. This Act shall take effect on January 1, 1964.

SEC. 21. (a) The sections of the Revised Statutes of the District of Columbia, and Acts or parts of Acts, enumerated in the schedule below, are hereby repealed. Any rights or liabilities existing under the statutes or parts thereof so repealed, and any cases, actions or proceedings instituted under, or growing out of, any of the statutes or parts thereof so repealed, are not affected by the repeal. However, laws becoming effective after August 10, 1963, and inconsistent with this Act, shall supersede it to the extent of the inconsistency.

(b) If any section of the Revised Statutes of the District of Columbia, or act, or part of an act, listed in the schedule below, has been repealed heretofore, the fact of its being listed in the schedule below shall not be construed as a revival thereof or as a recognition or acknowledgment that the section, act, or part of an act was in force at the time of the specific repeal effected by this section.

Effective date.  
Repeals.

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<sup>1</sup> This section was not actually set out as text in D. C. Code, 1961 ed., § 501, cited above, but was cited, thereto, perhaps as one of the historical sources thereof.

<sup>2</sup> The text of this act was not actually set out in any of the sections of D. C. Code, 1961 ed., cited above, but such act was set out in notes under, or cited in the credits to, each such section.

<sup>3</sup> This section was not actually set out as text in D. C. Code, 1961 ed., § 11-501, cited above, but was cited thereto, perhaps as one of the historical sources thereof.

<sup>4</sup> Only the proviso in the first paragraph on this page.

<sup>5</sup> Only the provisions commencing on this page and ending on page 254 which strike out section 763 of the Revised Statutes of the District of Columbia and substitute a new section so numbered.

<sup>6</sup> As added by act Feb. 18, 1909, ch. 146, 35 Stat. 629 (636).

<sup>7</sup> The text of this act was not actually set out in any of the sections of D. C. Code, 1961 ed., cited above, but such act was set out in notes under, or cited in the credits to, each such section.

<sup>8</sup> This section was not actually set out as text in D. C. Code, 1961 ed., § 11-204, cited above, but was cited thereto, perhaps as one of the historical sources thereof.

<sup>9</sup> This section was not actually set out as text in D. C. Code, 1961 ed., § 11-206, cited above, but was cited thereto, perhaps as one of the historical sources thereof.

<sup>10</sup> This section was not actually set out as text in D. C. Code, 1961 ed., § 11-204, cited above, but was cited thereto, perhaps as one of the historical sources thereof.

<sup>11</sup> This section was not actually set out as text in D. C. Code, 1961 ed., § 11-206, cited above, but was cited thereto, perhaps as one of the historical sources thereof.

<sup>12</sup> No part of this act was actually set out as text in any section of D. C. Code, 1961 ed., but the act was cited in its entirety to the credits of section 11-501 thereof, cited above, and section 10 of the act was cited to section 14-404 thereof, cited above, perhaps as historical sources of those sections.



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<sup>13</sup> As added by act May 19, 1922, ch. 194, 42 Stat. 543.<sup>14</sup> As added by act Feb. 26, 1927, ch. 220, 44 Stat. 1249.

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<sup>13</sup> All provisions of this section not heretofore repealed by act July 1, 1902, ch. 1352, § 1, 32 Stat. 590 (609).<sup>14</sup> As added by act Apr. 19, 1920, ch. 153, 41 Stat. 555 (565).<sup>15</sup> As enacted by act Aug. 7, 1935, ch. 453, § 1, 49 Stat. 539.<sup>16</sup> As added by act Aug. 7, 1935, ch. 453, § 3, 49 Stat. 540.

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<sup>22</sup> As added by act Aug. 4, 1950, Pub. L. 86-130, §1, 73 Stat. 276.<sup>21</sup> The provisions on this page amending sections 12, 13, 26, 29, 33 and 35 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1191, 1192, 1194, 1195).<sup>22</sup> The provisions on this page amending sections 42 and 51 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1196, 1198).<sup>23</sup> The provisions on this page and page 523 amending section 65 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1200).<sup>24</sup> The provisions on this page amending section 72 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1201).<sup>25</sup> The provisions on this page amending sections 102 and 104 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1205, 1206).<sup>26</sup> The provisions on this page and page 524 amending section 108 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1206).<sup>27</sup> The provisions on this page amending sections 110 and 111 of act Mar. 3, 1901, ch. 854, §1 Stat. 1189 (1207).

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<sup>28</sup> The provisions on this page amending section 119 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1208).

<sup>29</sup> The provisions on this page and page 526 amending section 121 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1209).

<sup>30</sup> The provisions on this page amending sections 129, 142, 143 and 144 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1211, 1214).

<sup>31</sup> The provisions on this page amending sections 174, 175, 177 and 190 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1218, 1219, 1221).

<sup>32</sup> The provisions on this page amending sections 224, 237 and 254 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1224, 1228, 1230).

<sup>33</sup> The provisions on this page amending sections 399, 412, 454, 455, 457, 466 and 491 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1252, 1254, 1261, 1262, 1263, 1266).

<sup>34</sup> The provisions on this page amending section 934 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1341).

<sup>35</sup> The provisions on this page amending sections 963, 975, 977, 984, 989 and 992 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1345, 1346, 1347, 1348).

<sup>36</sup> The provisions on this page and page 538 amending section 995 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1348).

<sup>37</sup> The provisions on this page amending sections 1000, 1003 and 1004 of act Mar. 3, 1901, ch. 854, 31 Stat. 1188 (1349, 1350).

<sup>38</sup> The provisions on this page and pages 539 and 540 amending section 1058 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1354).

<sup>39</sup> The provisions on this page amending sections 1060, 1062, 1065, 1067, 1079 and 1082 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1356, 1357, 1359).

<sup>40</sup> The provisions on this page amending sections 1084, 1085, 1088, 1091 and 1101 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1359, 1360, 1361).

<sup>41</sup> The provisions on this page and page 542 amending section 1111 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1364).

<sup>42</sup> The provisions on this page amending sections 1212, 1214, 1265, 1266, 1267 and 1268 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1381, 1389).

<sup>43</sup> The provisions on this page amending sections 1276, 1298, 1299, 1302 and 1532 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1390, 1394, 1418).



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<sup>44</sup> The provisions on this page amending sections 1535, 1537, 1542, 1551, 1552, 1554, 1557 and 1563 of act Mar. 3, 1901, ch. 854, 31 Stat. 1189 (1419, 1420, 1421, 1422).

<sup>45</sup> Only the paragraph on this page, reading as follows: "And hereafter there shall be paid to witnesses in cases in the police court of the District of Columbia, not exceeding seventy-five cents per diem for each day of attendance, to be allowed only in the discretion of the court."

<sup>46</sup> As added by act June 1, 1938, ch. 309, 52 Stat. 596.

<sup>47</sup> As amended by acts June 1, 1938, ch. 309, 52 Stat. 596-603; July 2, 1940, ch. 525, 54 Stat. 735; Aug. 3, 1951, ch. 291, § 4, 65 Stat. 154; June 12, 1952, ch. 417, §§ 1, 2, 66 Stat. 134; July 11, 1955, ch. 302, § 4, 69 Stat. 270.

<sup>48</sup> As added June 1, 1938, ch. 309, 52 Stat. 596 (603).

<sup>49</sup> As added June 1, 1938, ch. 309, 52 Stat. 596 (603), and amended June 12, 1952, ch. 417, § 3, 66 Stat. 134.

<sup>50</sup> As added by act June 1, 1938, ch. 309, 52 Stat. 596 (603).

<sup>51</sup> As added by act June 1, 1938, ch. 309, 52 Stat. 596 (603, 604). While it was the intent to repeal this section by act May 24, 1949, ch. 139, § 142, 63 Stat. 110, that act repealed section "33" of the act of June 1, 1938, which was not correct.

<sup>52</sup> As added by act June 1, 1938, ch. 309, 52 Stat. 596 (604).

<sup>53</sup> As added by act June 1, 1938, ch. 309, 52 Stat. 596 (604, 605).

<sup>54</sup> As added by act June 1, 1938, ch. 309, 52 Stat. 596 (605).

<sup>55</sup> As added by act Mar. 9, 1962, Public Law 87-413, § 5, 76 Stat. 22.

<sup>56</sup> The first full paragraph on this page.

<sup>57</sup> The proviso in the second paragraph on this page.

<sup>58</sup> The two provisos on this page.

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<sup>60</sup> The proviso in the first full paragraph on this page.

<sup>61</sup> The proviso in the third paragraph under the heading "For Courts and Prisons" on this page.

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<sup>as</sup> The proviso in the second paragraph on this page.

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Approved December 23, 1963.

## Public Law 88-242

## JOINT RESOLUTION

December 30, 1963

To authorize the President to issue annually a proclamation designating the first week in March of each year as "Save Your Vision Week".

[S. J. Res. 113]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is authorized and requested to issue annually a proclamation designating the first week in March of each year as "Save Your Vision Week", and inviting the Governors and mayors of State and local governments of the United States to issue similar proclamations. The President is further requested to consider including in such proclamation an invitation calling upon the press, radio, television, and other communications media, the health care professions and all other agencies and individuals concerned with programs for the improvement of vision to unite during such week in public activities to impress upon the people of the United States the importance of vision to their own welfare and that of our country, and to urge their support of programs to improve and protect the vision of Americans.

Save Your  
Vision Week.  
Annual procla-  
mation, authori-  
zation.

Approved December 30, 1963.