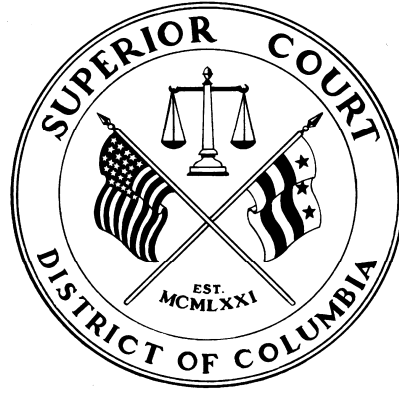
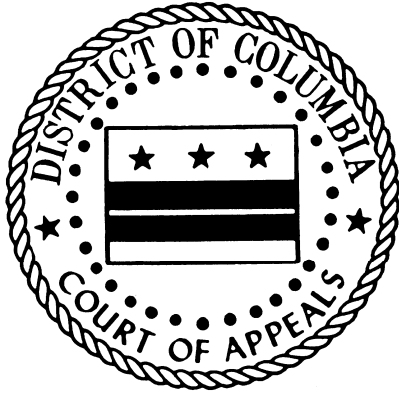


DISTRICT OF COLUMBIA COURTS



TESTIMONY OF ANNE B. WICKS EXECUTIVE OFFICER D.C. COURTS

**ON H.R. 5600, THE DISTRICT OF COLUMBIA
COURTS, OFFENDER SUPERVISION,
PAROLE, AND PUBLIC DEFENDER
EMPLOYEES EQUITY ACT OF 2008**

**BEFORE THE HOUSE SUBCOMMITTEE ON
THE FEDERAL WORKFORCE, POSTAL
SERVICE, AND THE DISTRICT OF
COLUMBIA**

TUESDAY, JULY 15, 2008

Open to All ♦ Trusted by All ♦ Justice for All

Mr. Chairman, Congresswoman Norton, Members of the Subcommittee, I am Anne B. Wicks, Executive Officer of the District of Columbia Courts. I am here today to offer testimony on H.R. 5600, the “District of Columbia Courts, Offender Supervision, Parole, and Public Defender Employees Equity Act of 2008.” The District of Columbia Courts appreciate your efforts to ensure that *all* the years of public service provided by *all* of our employees will count for the purpose of determining eligibility for retirement.

I am accompanied today by Kathy Holiday Crawford, a Probation Officer with the Family Court Social Services Division. As you are probably aware, law enforcement personnel are eligible to retire after 20 years of service, with a mandatory retirement age of 57. Ms. Crawford has been a probation officer with the Courts for 19 years. Because of the changes instituted as part of the Revitalization Act, Ms. Crawford will not be able to retire next year as anticipated but must wait until 2017 – at which time she will be beyond the mandatory retirement age and will have served in a law enforcement position for over 28 years. While I can provide the reasons that this bill is necessary from the Courts’ perspective, Kathy’s written testimony illustrates just how dramatically the current statutory scheme affects individual employees.

More than 250 of the D.C. Courts’ employees have lost up to 10 years of government service, an unfair and unintentional consequence of the 1997 D.C. Revitalization Act. These individuals represent over one-quarter, or 26%, of the Courts’ current employees. To discount years of public service and court work experience for such a huge segment of our workforce has had a significant negative impact on employee morale and employee-management relations.

Management has a responsibility to protect employee rights, pay a living wage, and provide health and retirement benefits. Unfortunately, as a result of the Revitalization Act, many of the Courts' employees believe management has let them down. H.R. 5600 would restore fairness to our retirement system and significantly improve morale among our workforce.

Employees of the D.C. Courts who were hired prior to October 1, 1987 participated in the Civil Service Retirement System. Court employees hired between October 1, 1987 and October 11, 1997 were part of the District of Columbia's retirement system. When the D.C. Revitalization Act was passed in 1997, it provided that all court employees would be treated as federal employees for the purposes of retirement. What the Act did not do was to count, towards retirement, the years of service for employees who were under the District's retirement system -- that is, all employees hired by the Courts between 1987 and 1997. It was as though their employment with the Courts began when the Revitalization Act took effect. Although these 250 or so employees had worked for the D.C. Courts for up to 10 years, and have continued through today to remain dedicated court employees 11 years later -- the Revitalization Act imposed on them an artificial change in their employment status, resulting in a loss of valuable time and credit towards retirement.

Consider how this works: An employee hired by the Courts in September 1987 would have been under the Civil Service Retirement System, and today has nearly 21 years of service when computing retirement eligibility. An employee hired one month later, in October 1987, would have been under the District retirement system for 10 years, and today has only 11 years of service toward retirement. The reality, of course, is that both employees have worked for the D.C. Courts for nearly 21 years.

The rationale for this decision – that these employees participated in a different, non-federal retirement program – while logical, is neither practical nor fair. The fact is that up to 10 years of government work is being ignored when determining eligibility for retirement. The fact is that, for these employees, their years of service with the D.C. Courts and their years of service to the people of the District of Columbia are not being fully counted towards the total that makes them eligible to retire.

We are not asking for these employees to get paid additional money from the federal government; they paid into a different retirement system (the District’s system) and will be entitled to their funds in that system when they retire. What we are asking is for all the years of D.C. Court employment to be counted when retirement eligibility is calculated. For an employee to have to work six or eight or ten more years, many more years than their co-workers, to be eligible to retire, solely by coincidence of when they were hired, is patently unfair.

To ignore years of an individual’s work contribution as a government employee in the justice system is particularly problematic for the D.C. Courts. Imagine being responsible for ensuring justice and fairness day in and day out when you believe an injustice has been done to you. Imagine being responsible for managing these employees.

The Courts have two minor technical changes to propose; changes that the Public Defender Service agrees with, and to which the Court Services and Offender Supervision Agency does not object. First, please include employees in the “CSRS Offset” program – that is, employees who were hired during the relevant 10 years and who had previous federal government service. The bill, as drafted, does not include these individuals who presently face the same inequity as those who were in the District’s

retirement system. They represent a small percentage of the affected group.

Second, language is being requested to clarify what we understand to be the sponsors' intent, that Section 2(a) applies to employees of the District of Columbia Courts and the Public Defender Service. While these employees are statutorily required to be treated as federal employees for purposes of retirement,¹ they are not included in the FERS or CSRS definitions of "employee."² An explicit reference to these employees in Section 2(a) would clarify their coverage under the bill. I have attached proposed text that incorporates these two slight technical changes to the bill as introduced.

On behalf of the over 250 employees of the District of Columbia Courts whose years of service are being treated as though they do not exist and who are, therefore, required to work years longer than their colleagues to be eligible to retire, I strongly urge you to pass H.R. 5600. The vision of the D.C. Courts is to be "Open to All, Trusted by All, and to provide Justice for All." We would like to ensure that the injustice to our employees which was inadvertently caused by the Revitalization Act is corrected.

Mr. Chairman, Ms. Norton, thank you for your support for this much-needed legislation and for holding this hearing today. This is an issue of fundamental fairness to our employees and for that reason means a great deal to us. Ms. Crawford and I would be pleased to answer any questions you might have.

¹ Pub. L. Nos. 105-33, §11246(b)(1) (1997) and 105-274, §7(e)(1) (1998).

² 5 U.S.C. §§ 8401(11), 8331(1).

ATTACHMENT - Suggested bill text:

A BILL

To permit nonjudicial employees of the District of Columbia courts, employees transferred to the Pretrial Services, Parole, Adult Probation, and Offender Supervision Trustee, and employees of the District of Columbia Public Defender Service to have periods of service performed prior to the enactment of the Balanced Budget Act of 1997 included as part of the years of service used to determine the time at which such employees are eligible to retire under chapters 83 and 84 of title 5, United States Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'District of Columbia Court, Offender Supervision, Parole, and Public Defender Employees Equity Act of 2008'.

SEC. 2. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.

(a) In General- Any individual serving as an employee or Member (as those terms are defined by section 8331 or 8401 of title 5, United States Code), as an employee of the District of Columbia Courts, or the Public Defender Service of the District of Columbia, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under section 8332 or 8411 of title 5, United States Code, as applicable, but only for purposes of the following provisions of such title:

- (1) Section 8410 (relating to eligibility for annuity).
- (2) Section 8336 or 8412 (relating to immediate retirement).
- (3) Section 8338 or 8413 (relating to deferred retirement).
- (4) Section 8414 (relating to early retirement).
- (5) Subchapter IV of chapter 84 (relating to survivor annuities).
- (6) Subchapter V of chapter 84 (relating to disability benefits).

(b) Service Not Included in Computing Amount of Any Annuity- Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

SEC. 3. QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.

In this Act, 'qualifying District of Columbia service' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts--

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997--

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service--

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was appointed to a position in the Federal Government under the priority consideration program established by the Bureau of Prisons under section 11203 of the Balanced Budget Act of 1997, service performed by the individual as an employee of the District of Columbia Department of Corrections--

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

SEC. 4. CERTIFICATION OF SERVICE.

The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.