

COUNCIL OF THE DISTRICT OF COLUMBIA

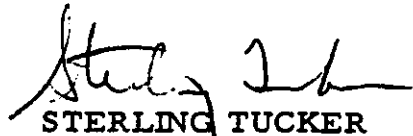
NOTICE

D. C. Law 2-100

"District of Columbia Medical Care Recovery Act
of 1978"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, (PL 93-198) the Act, the Council of the District of Columbia adopted Bill No. 2-98 on first and second readings May 2, 1978 and May 16, 1978, respectively. Following the signature of the Mayor on June 15, 1978, this legislation was assigned Act No. 2-208, published in the July 14, 1978, edition of the D. C. Register, and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired and, therefore, cites the following legislation as D. C. Law 2-100, effective August 17, 1978.


STERLING TUCKER
Chairman of the Council

(Vol. 25, D. C. Register, 288, July 14, 1978)

AN ACT

2-208

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 15, 1978

To provide for the recovery, from tortiously liable third persons, of the cost of medical and hospital care and treatment, funeral expenses, and salary payments furnished or paid by the District of Columbia to members of the Metropolitan Police Department and the District of Columbia Fire Department, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Medical Care Recovery Act of 1978".

Sec. 2. As used in this act, the term "Mayor" means the Mayor of the District of Columbia or his designated agent, and the term "person" means an individual, firm, partnership, joint stock company, corporation, association, incorporated society, statutory or common law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, committee, assignee, officer, employee, principal or agent.

Sec. 3. Whenever the District of Columbia is authorized or required by law to (a) furnish or pay the expenses for hospital, medical, surgical, dental care and treatment (including prostheses and medical appliances) or the funeral expenses of an officer or member of the Metropolitan

Police Department or the Fire Department of the District of Columbia (hereinafter, "policeman or fireman"); or (b) extend leave of absence with pay to a policeman or fireman who is injured or suffers a disease under circumstances creating a tort liability upon a third person to pay damages therefor, whether or not received or contracted in the performance of duty, the District of Columbia shall have a right to recover from said third person the reasonable value of the care and treatment so furnished or to be furnished, or for which payment has been or will be made, and the amount of wages paid or to be paid during the leave of absence resulting therefrom, and shall as to such right, be subrogated to any right or claim which the injured or diseased policeman or fireman, his guardian, personal representative, estate, dependents, or survivors has or have against such third person to the extent of the reasonable value of the care and treatment so furnished or to be furnished, or for which payment has been or will be made, and the amount of wages based upon an authorized leave of absence paid or to be paid to such policeman or fireman. The Mayor may also require the injured or diseased policeman or fireman, his guardian, personal representative, estate, dependents, or survivors, as appropriate, to assign his claim or cause of action against the third person to the

District of Columbia to the extent of the District's right or claim.

Sec. 4. To enforce such right, the District of Columbia may (a) intervene or join in any action or proceeding brought by the injured or diseased policeman or fireman, his guardian, personal representative, estate, dependents, or survivors, against the third person who is or may be liable in damages for the injury or disease; or (b) if such action or proceeding is not commenced within six (6) months after the first day in which care and treatment is furnished by the District of Columbia in connection with the injury or disease involved, institute and prosecute legal proceedings in a District of Columbia, state or federal court, either alone (in its name or in the name of the injured policeman or fireman, his guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured policeman or fireman, his guardian, personal representative, estate, dependents or survivors against the third person who is liable for the injury or disease. Any employee of the District of Columbia who is required to appear as a party or witness in the prosecution of said action or proceeding is, when directed to participate in the preparation for trial or the trial thereof and while so engaged, in an active duty status.

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Sec. 5. (a) The District of Columbia shall have a lien, to the amount of the reasonable value of the care and treatment, funeral expenses, and wage payments described in section 3, upon any recovery of sum received or collected or to be collected by an injured or diseased policeman or fireman, his guardian, personal representative, estate, dependents, or survivors in a claim or action asserted or maintained by such policeman or fireman or his personal representative against a liable third person for damages.

(b) No such lien described above shall be effective, however, unless, prior to the payment of any moneys to such injured or diseased policeman or fireman, his attorney, or personal representative as compensation for such injury or disease, the District of Columbia shall have filed in the Office of the Recorder of Deeds of the District of Columbia, in a docket provided for such liens, a written notice containing the name and address of the injured or diseased policeman or fireman, the date and approximate place of the accident or incident giving rise thereto and the name of the person alleged to be liable to the policeman or fireman for the injuries or disease received; or unless the District of Columbia shall also mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person alleged to be liable to the policeman or fireman for

the injuries or disease received, prior to the payment of any moneys to such injured or diseased policeman or fireman, his attorney, or personal representative as compensation for such injury or disease. Where the name of an insurance carrier for the third party tort-feasor is ascertained, the District of Columbia shall also mail a copy of such notice to such insurance carrier. Notice of the filing of the lien shall also be given to the injured or diseased policeman or fireman, or to his attorney or personal representative.

(c) Any person, including an insurance carrier, who, after the mailing of such notice, shall make any payment to such policeman or fireman or to his attorney or personal representative as compensation for the injury sustained or disease contracted without paying to the District of Columbia the amount of its lien or so much thereof as can be satisfied out of the moneys due under any final judgment or compromise or settlement agreement after paying the amount of any prior liens, shall for a period of one (1) year from the date of payment to such policeman or fireman, his attorney, or personal representative, as aforesaid, be and remain liable to said District of Columbia for the amount which the District was entitled to receive under its lien, and the District of Columbia, may, within such period,

enforce its lien by an action against the person making any such payment.

(d) When a policeman or fireman or his attorney or personal representative receives, as a result of an action or proceeding brought by the policeman or fireman or on his behalf or a result of a settlement made by him or on his behalf any moneys or other property in satisfaction of the liability of a third person for the injury sustained or disease contracted, such policeman or fireman or his attorney or personal representative, as the case may be, shall ascertain and pay to the District of Columbia the amount of its lien or so much thereof as can be realized out of any such recovery or settlement. Notwithstanding any other provision of law, whenever a policeman or fireman or his attorney or personal representative receives any payment as described in the preceding sentence and fails to pay to the District of Columbia the amount of its lien, the District of Columbia is authorized to take appropriate action to recover from such policeman or fireman or his attorney or personal representative the amount of its lien, including but not limited to, the right to counterclaim, setoff, or attach moneys or other property otherwise due and payable from the District of Columbia to said policeman or

fireman, his guardian, personal representative, estate, dependents or survivors.

Sec. 6. The Mayor is authorized to promulgate rules and regulations to carry out the purposes of this act, including but not limited to, regulations (a) with respect to the determination and establishment of the reasonable value of the hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished, or paid or to be paid; and (b) to provide procedures for distributing the proceeds from recoveries and settlements obtained by either the injured or diseased policeman or fireman or the District of Columbia: PROVIDED, That in any event said policeman or fireman, or his guardian, personal representative, estate, dependents or survivors shall have the right to retain not less than one-fifth (1/5) of the net amount of any money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the lien of the District of Columbia.

Sec. 7. To the extent prescribed by regulations under section 6 of this act, the Mayor may (a) compromise or settle and execute a release of, any claim which the District of Columbia has by virtue of the rights establishe

by sections 3, 4, or 5; or (b) for the convenience of the District of Columbia, or if the Mayor determines that collection would result in undue hardship upon the policeman or fireman who suffered the injury or disease resulting in care and treatment described in section 3, or upon his dependents or survivors, waive any such claim in whole or in part.

Sec. 8. No action taken by the District of Columbia in connection with the rights afforded under this act shall operate to deny to the injured or diseased policeman or fireman recovery for any damages or portion thereof not covered by this act.

Sec. 9. Nothing in this act shall be deemed to apply to any hospital, medical, surgical, or dental care or treatment or wage payments based upon an authorized leave of absence which a policeman or fireman is receiving or is entitled to receive from the District of Columbia for an injury received or disease contracted prior to enactment of this act.

Sec. 10. Appropriations to carry out the purposes of this act, including funds for the advancement of costs and expenses for the enforcement of recoveries, are hereby authorized.

Sec. 11. This act shall take effect pursuant to section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.