

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, Chapter 48 of Title 16 of the District of Columbia Official Code to expand the standby guardianship law to enable a parent, legal guardian, or legal custodian who is, or may be, subject to an adverse immigration action or at risk of exposure to COVID-19, to make short-term plans for a child without terminating or limiting that person’s parental or custodial rights.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Standby Guardian Emergency Amendment Act of 2020”.

Sec. 2. Chapter 48 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-4801 is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “or who is periodically incapable of caring for the needs of a child due to the parent’s incapacity or debilitation resulting from illness,” and inserting the phrase “who is periodically incapable of caring for the needs of a child due to the parent’s incapacity or debilitation resulting from illness, or who may be subject to an adverse immigration action,” in its place.

(2) Paragraph (2) is amended by striking “ill parents” and inserting “parents who may be ill or subject to an adverse immigration action” in its place.

33 (b) Section 16-4802 is amended as follows:

34 (1) Paragraph (1) is redesignated as Paragraph (1A).

35 (2) A new paragraph (1) is added to read as follows:

36 “(1) “Adverse immigration action” means any of the following events:

37 “(A) Arrest or apprehension by any local, state, or federal law
38 enforcement officer for an alleged violation of federal immigration law;

39 “(B) Arrest, detention, or custody by the Department of Homeland
40 Security or a federal, state, or local agency authorized or acting on behalf of the Department
41 of Homeland Security;

42 “(C) Departure from the United States under an order of removal,
43 deportation, exclusion, voluntary departure, or expedited removal, or a stipulation of
44 voluntary departure;

45 “(D) The denial, revocation, or delay of the issuance of a visa or
46 transportation letter by the Department of State;

47 “(E) The denial, revocation, or delay of the issuance of a parole
48 document or reentry permit by the Department of Homeland Security; or

49 “(F) The denial of admission or entry into the United States by the
50 Department of Homeland Security or a local or state officer acting on behalf of the
51 Department of Homeland Security.”.

52 (3) A new paragraph (5A) is added to read as follows:

53 “(5A) “COVID-19” means the disease caused by the novel coronavirus
54 SARS-CoV-2.”.

55 (4) Paragraph (6) is amended to read as follows:

56 [REDACTED]“(6) “Deilitation” means those periods when a person cannot care for that
57 person’s minor child as a result of:

58 [REDACTED]“(A) A chronic condition caused by physical illness, disease, or injury
59 from which, to a reasonable degree of probability, the designator may not recover; or

60 [REDACTED]“(B) A serious medical condition caused by COVID-19.”.

61 (5) Paragraph (8) is amended by striking the phrase “, who has been
62 diagnosed, in writing, by a licensed clinician to suffer from a chronic condition caused by
63 injury, disease, or illness from which, to a reasonable degree of probability, the designator
64 may not recover.” and inserting a period in its place.

65 (6) Paragraph (10) is amended to read as follows:

66 “(10) “Incapacity” means:

67 [REDACTED]“(A) A chronic and substantial inability, as a result of a mental or organic
68 impairment, to understand the nature and consequences of decisions concerning the care of a
69 minor child, and a consequent inability to care for the minor child; or

70 [REDACTED]“(B) A substantial inability, as a result of COVID-19, to understand the
71 nature and consequences of decisions concerning the care of a minor child, and a consequent
72 inability to care for the minor child.”.

73 (7) Paragraph (13) is amended to read as follows:

74 “(13) “Triggering event” means any of the following events:

75 “(A) The designator is subject to an adverse immigration action;

76 “(B) The designator has been diagnosed, in writing, by a licensed clinician
77 to suffer from a chronic condition caused by injury, disease, or illness from which, to a
78 reasonable degree of probability, the designator may not recover and the designator:

79 “(i) Becomes debilitated, with the designator’s written
80 acknowledgement of debilitation and consent to commencement of the standby guardianship;

81 “(ii) Becomes incapacitated as determined by an attending
82 clinician; or

83 “(iii) Dies; or

84 “(C) The designator has been diagnosed, in writing, by a licensed clinician
85 to suffer from COVID-19 and the designator:

86 [REDACTED] “(i) Becomes debilitated, with the designator’s written
87 acknowledgement of debilitation and consent to commencement of the standby guardianship;

88 [REDACTED] “(ii) Becomes incapacitated as determined by an attending
89 clinician; or

90 [REDACTED] “(iii) Dies.”.

91 (c) Section 16-4804(a) is amended by striking the phrase “the designator’s health”
92 and inserting the phrase “the designator’s health or immigration status” in its place.

93 (d) Section 16-4805(b) is amended as follows:

94 (1) Paragraph (3) is amended as follows:

95 (A) Subparagraph (B) is amended by striking the phrase “; or” and
96 inserting a semicolon in its place.

97 (B) Subparagraph (C) is amended by striking the semicolon and
98 inserting the phrase “; or” in its place.

99 (C) A new subparagraph (D) is added to read as follows:

100 “(D) An adverse immigration action against the designator;”.

101 (2) Paragraph (4) is amended by striking the phrase “that the designator

102 suffers” and inserting the phrase “that the designator experienced an adverse immigration
103 action or suffers”.

104 (3) A new paragraph (7A) is added to read as follows:

105 “(7A) If an adverse immigration action is the triggering event, documentation
106 demonstrating that an adverse immigration action occurred;”.

107 (e) Section 16-4806 is amended as follows:

108 (1) Subsection (b) is amended by striking the phrase “or dies.” and inserting
109 the phrase “dies, or is subject to an adverse immigration action.” in its place.

110 (2) Subsection (c) is amended as follows:

111 (A) Paragraph (2) is amended by striking the phrase “; or” and
112 inserting a semicolon in its place.

113 (B) Paragraph (3) is amended by striking the period and inserting the
114 phrase “; or” in its place.

115 (C) A new paragraph (4) is added to read as follows:

116 “(4) The documentation demonstrating that an adverse immigration action occurred
117 against the designator.”.

118 (3) Subsection (l) is amended by striking the phrase “medically unable to appear”
119 and inserting the phrase “unable to appear for medical reasons or due to an adverse immigration
120 action” in its place.

121 Sec. 3. Applicability.

122 This act shall apply as of July 8, 2020.

123 Sec. 4. Fiscal impact statement.

124 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
125 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
126 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

127 Sec. 5. Effective date.

128 This act shall take effect after approval by the Mayor (or in the event of veto by the
129 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
130 90 days, as provided for emergency acts of the Council of the District of Columbia in section
131 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
132 D.C. Official Code § 1-204.12(a)).