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**Testimony Before the Council of the District of Columbia  
Committee on the Judiciary and Public Safety**

**Public Hearing:  
Bill B24-0489: Expanding Fee Waivers for Low-Income Litigants Act of 2021  
January 6, 2022**

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Good morning, Chairperson Allen and members of the Committee on the Judiciary and Public Safety. My name is Stephanie McClellan and I am the Deputy Director of DC KinCare Alliance. I am pleased to testify today regarding the proposed legislation being considered by this Committee, Bill B24-0489, “Expanding Fee Waivers for Low-Income Litigants Act of 2021.” DC KinCare Alliance is a member of the Fair Budget Coalition and we support budget priorities and policies that alleviate poverty in the District of Columbia.

The mission of DC KinCare Alliance is to support the legal, financial, and related service needs of relative caregivers who step up to raise children in their extended families in times of crisis when the children’s parents are not able to care for them due to mental health and substance use disorders, incarceration, death, abuse and neglect, and/or deportation. DC KinCare Alliance is the only organization in DC focused solely on serving relative caregivers raising DC’s at-risk children. We rely on our Relative Caregiver Community Board, comprised of 20 relatives raising 25 at-risk DC children, to identify systemic issues with policies and practices affecting DC families.

Through our work supporting relative caregivers, we assist many relatives who file for custody or a civil protection order in DC Superior Court. Most of these relatives are low-income and cannot afford the filing fees to initiate litigation in court. However, many of these relatives may not receive TANF or SNAP because of bureaucratic hurdles associated with obtaining such benefits for non-parent caregivers. Even if they do not receive TANF or SNAP, they may be receiving the DC Grandparent Caregiver Program or Close Relative Caregiver Program subsidy. Both Programs have the same eligibility requirements with respect to household income, capping it at 200 percent of the federal poverty line, which we all know is still very low-income for a family living in DC. *See* DC Code §§ 4-251.03(a)(5) and 4-251.23(a)(5). The proposed legislation recognizes this and includes litigants receiving the Grandparent Caregiver Program subsidy as guaranteed eligible for a fee waiver. However,

it leaves out recipients of the Close Relative Caregiver Program, perhaps inadvertently, because this is a new program that was just established by the Council in 2019. *See* D.C. Law 23-25, *Close Relative Caregiver Subsidy Pilot Program Establishment Temporary Amendment Act of 2019*. Accordingly, we ask this Committee to revise the legislation to add that litigants who receive the Close Relative Caregiver Program subsidy are guaranteed eligible for fee waivers.

We believe that fundamental fairness requires that, in addition to filing fee waivers, the costs to obtain transcripts of court proceedings should be waived for low-income litigants. We note that the current statute at DC Code 15-712(a) explicitly includes fee waivers for “transcripts on appeal, but not for non-appeal transcripts. This has resulted in the Court generally not permitting waivers of costs for non-appeal transcripts.<sup>1</sup> Many low-income litigants are unable to pay the costs to obtain transcripts of proceedings during the pendency of their cases, which can be prejudicial to them in prosecuting or defending their cases. Transcripts can be essential for trial preparation, especially in protracted litigation where there are multiple evidentiary hearings or where a litigant retains *pro bono* counsel in the middle of a case and counsel needs to get up to speed. Further, there is an unfair balance of power when one party has the means to pay for transcripts while the other party does not.

We note that the proposed legislation leaves out the provision in the current law for waiver of costs of appeal transcripts. We do not know if this was inadvertent or an attempt to address the fact that the language may have inequitable consequences. We believe the Council should be explicit as to whether and under what circumstances the costs of transcripts are waived. To this end, we recommend that the Council revise the proposed bill

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<sup>1</sup> For example, Rule 54-II(k) of both the DC Superior Court Rules of Civil Procedure and Rules Governing Domestic Relations Proceedings provides that “An applicant who has received a waiver of the prepayment of costs, fees, or security may file a motion requesting that **free transcripts be prepared for appeal** and explaining the basis for the motion.” (**emphasis added**).

to include the current language in the statute for the waiver of costs for appeal transcripts, and also add language specifically allowing for the waiver of costs for non-appeal transcripts, when justice so requires. We would be pleased to work with the Committee on drafting such language.

Thank you for the opportunity to testify today. I am happy to answer any questions.