

A RESOLUTION

25-82

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 7, 2023

To declare the existence of an emergency with respect to the need to amend the District of Columbia Public Records Management Act of 1985 to clarify that communications created or received electronically in the course of official business are subject to existing record-retention obligations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fidelity in Access to Government Communications Clarification Emergency Amendment Act of 2023”.

Sec. 2. (a) This measure closes a gap in the law. The District does not currently have a consistent government-wide policy regarding electronic communications.

(b) On March 1, 2022, the Council unanimously voted to approve the Fidelity in Access to Government Communications Clarification Emergency Amendment Act of 2022, effective March 28, 2022 (D.C. Act 24-355; 69 DCR 2633) (“emergency act”), which amended the District of Columbia Public Records Management Act of 1985, effective September 5, 1985 (D.C. Law 6-19; D.C. Official Code § 2-1701), to clarify that all communications created or received electronically in the course of official business are subject to existing record-retention obligations.

(c) The emergency act was passed after a concerning report regarding the Executive’s use of WhatsApp Messenger was published online. Among many features available within the application is the ability to auto-delete messages after a set period of time.

(d) On April 5, 2022, the Council unanimously passed the Community Service Graduation Requirement Waiver Regulation Temporary Amendment Act of 2022, effective June 30, 2022 (D.C. Law 24-135; 69 DCR 8340) (“temporary act”), which included, as an amendment, the text of the emergency act. The temporary act expired on February 10, 2023.

(e) Emergency legislation is therefore necessary to ensure that existing record retention guidelines continue to apply to a wide variety of electronic communications and to ensure public access to information is not diminished or compromised.

ENROLLED ORIGINAL

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fidelity in Access to Government Communications Clarification Emergency Amendment Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.