

A RESOLUTION

23-612

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2020

To declare the existence of an emergency with respect to the need to amend the Freedom of Information Act of 1976 to adjust the tolling period for FOIA requests.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “FOIA Tolling Emergency Declaration Resolution of 2020”.

Sec. 2. (a) Earlier this year, the Council adopted several emergency and temporary measures related to the COVID-19 pandemic. One provision included in the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 8622), allowed for the tolling of any Freedom of Information Act (“FOIA”) requests during a time in which the Mayor has declared a public health emergency.

(b) At the time of initial adoption, the Council believed that the provision was necessary because government staff had limited access to documents and records that may be responsive to FOIA requests.

(c) Despite limitations, many agencies have continued to receive and process FOIA requests, and advocates have asked that the Council revisit this provision in light of agencies having the ability to fulfill these requests now that the government has adjusted to working during the pandemic.

(d) To provide public bodies with time to process the FOIA requests that they have received over the last 8 months that FOIA has been tolled, the emergency does not end the FOIA tolling until January 15, 2021, and provides public bodies 45 days to respond to the FOIA requests that they have received thus far.

(e) To ensure that individuals remain safe and healthy during the COVID-19 pandemic, the emergency includes a provision that extends the FOIA response timelines when the need to conduct an on-site review of records could present a significant risk to an individual’s health or safety. Thus, individuals will not have to risk their health or safety in order to respond to a FOIA request.

ENROLLED ORIGINAL

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the FOIA Tolling Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.