

A RESOLUTION

25-379

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 5, 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 Second Emergency Declaration Resolution 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 7, 2023, the Council unanimously passed Bill 25-166, the Fidelity in Access to Government Communications Clarification Temporary Amendment Act of 2023, effective June 14, 2023 (D.C. Law 25-20; 70 DCR 8843) (“temporary act”). The temporary act will expire on January 25, 2024.

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

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

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 Second Emergency Amendment Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.