

AN ACT

Codification  
District of  
Columbia  
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Public Records Management Act of 1985 to clarify that a public record includes various forms of electronic records, and that the medium upon which information is recorded does not determine whether the record is a public record, to provide that the District’s electronic mail shall be retained until rules regarding retention of electronic mail are submitted to the Council and approved, to provide that a record authorized to be disposed of by the Records Disposition Committee shall not be effective until 45 days after publication in the District of Columbia Register, and to provide that any rules be submitted to the Council for a 45-day period of review; and to amend Title 28 of the District of Columbia Official Code to require that the retention of electronic records conform to the District of Columbia Public Records Management Act of 1985.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Electronic Mail Public Record Clarification Amendment Act of 2008”.

Sec. 2. 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 *et seq.*), is amended as follows:

(a) Section 2(13) (D.C. Official Code § 2-1701(13)) is amended to read as follows:

Amend  
§ 2-1701

“(13) “Public record” means any document, book, photographic image, electronic data recording, electronic mail, paper, video recording, sound recording, microfilm, computer disk, or other material, regardless of physical form or characteristic, that documents a transaction or activity made, received, or retained pursuant to law or in connection with the transaction of public business by or with any officer or employee of the District. The medium upon which such information is recorded shall have no bearing on the determination of whether the record is a public record.”.

(b) Section 3(e) (D.C. Official Code § 2-1702(e)) is amended by adding 2 new sentences at the end to read as follows:

Amend  
§ 2-1702

“The Mayor shall submit the proposed rules and regulations to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If

**ENROLLED ORIGINAL**

the Council does not approve the proposed rules and regulations, by resolution, within the 45-day period, the proposed rules and regulations shall be deemed approved.”.

(c) Section 7 (D.C. Official Code § 2-1706) is amended as follows:

**Amend  
§ 2-1706**

(1) Subsection (a)(2)(A) is amended by striking the phrase “Committee.” and inserting the phrase “Committee; provided, that an authorization approved by the Committee shall not be effective until 45 days after its publication in the District of Columbia Register.” in its place.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) No electronic mail shall be deleted or destroyed until new rules and regulations for the retention of electronic mail are submitted to and approved by the Council pursuant to section 3(e). Such rules and regulations shall be submitted within 60 days of the effective date of the Electronic Mail Public Record Clarification Amendment Act of 2008, passed on 2<sup>nd</sup> reading on April 1, 2008 (Enrolled version of Bill 17-490).”.

Sec. 3. Section 28-4916 of the District of Columbia Official Code is amended to read as follows:

“§ 28-4916. Creation and retention of electronic records and conversion of written records by governmental agencies.

**Amend  
§ 28-4916**

“The Mayor shall determine whether, and the extent to which, a governmental agency will create electronic records and convert written records to electronic records. The retention of electronic records shall conform to the requirements and practices established under Chapter 17 of Title 2 of the District of Columbia Official Code.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer, dated March 28, 2008, as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia