

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



ATTORNEY GENERAL  
KARL A. RACINE

2019 JAN 16 AM 10:18  
OFFICE OF THE  
SECRETARY

January 16, 2019

The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Suite 504  
Washington, DC 20004

Dear Chairman Mendelson:

I am writing to transmit the "Attorney General Civil Rights Enforcement Clarification Amendment Act of 2019" ("Bill") for consideration and enactment by the Council of the District of Columbia. The Bill would amend the *Human Rights Act of 1977*, (D.C. Law 2-38; D.C. Official Code § 2-1401.01 et seq.), to:

- Authorize the Attorney General to bring civil actions under the *Human Rights Act* in the name of the District of Columbia;
- Clarify that, in a fair housing action, the aggrieved party may retain his or her own counsel at any time, and
- Clarify that the Attorney General may seek to withdraw from representing aggrieved party and continue representing only the District's interests if he or she believes that the District's and the aggrieved party's interest diverge.

These important updates will allow the Office of the Attorney General to work in coordination with the Office of Human Rights to directly litigate pattern and practice cases regarding violations of the *Human Rights Act*. The Office of the Attorney General looks forward to working with the Council and other stakeholders to ensure the District continues to update our laws to best protect the health, safety, and wellbeing of residents.

If you have any questions, you may contact me, or your staff may contact Deputy Attorney General James Pittman on (202) 724-6517.

Sincerely,

Karl A. Racine  
Attorney General



Chairman Phil Mendelson  
at the request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to clarify the role of the Attorney General in a civil action involving housing discrimination; authorize the Attorney General to enforce the act on behalf of the public interest; and make technical corrections.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Attorney General Civil Rights Enforcement Clarification Amendment Act of 2019”.

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 102 is amended by adding a new subsection (2-A) to read as follows:

“(2-A) “Attorney General” means the Attorney General for the District of Columbia provided for by section 201(b) of the Attorney General for the District of Columbia Clarification and Elected Term Amended Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-204.35).”.

(b) Section 305 (D.C. Official Code 2-1403.05) is amended as follows:

(1) Subsection (g) is amended by striking the phrase “Corporation Counsel” and replacing it with “Attorney General”.

35 (2) New subsections (h), (i), and (j) are added to read as follows:

36 “(h) Notwithstanding any other provision of this chapter, at any time in a civil action  
37 pursuant to subsection (g) of this section, the aggrieved party may retain his or her own counsel  
38 and notify the Attorney General and the respondent(s) of the decision.

39 “(i) Notwithstanding any other provision this chapter, if the Attorney General believes  
40 that the District of Columbia’s interests and the aggrieved party’s interests in a civil action  
41 pursuant to subsection (g) of this section diverge, the Attorney General may seek to withdraw  
42 from a civil case filed on behalf of the aggrieved party 30 days after notifying the aggrieved  
43 party of the Attorney General’s intent to withdraw and to thereafter continue representing the  
44 District of Columbia’s interests.

45 “(j) The Attorney General shall not in any action brought pursuant to subsection (g) of  
46 this section be awarded an amount already recovered, however a private party’s settlement shall  
47 not preclude the Attorney General from seeking additional available remedies under the act  
48 based on the same or similar conduct.”.

49 (c) Section 307 (D.C. Official Code § 2-1403.07) is amended to read as follows:

50 “If, at any time after a complaint has been filed, the Office believes that appropriate civil  
51 action to preserve the status quo or to prevent irreparable harm appears advisable, the Office  
52 shall certify the matter to the Attorney General, who shall bring, in the name of the District of  
53 Columbia, any action necessary to preserve such status quo or to prevent such harm, including  
54 the seeking of temporary restraining orders and preliminary injunctions. The appropriate parties  
55 shall be notified of such certification and the complainant may initiate independently, or in  
56 cooperation with the Attorney General, appropriate civil action to seek a temporary restraining  
57 order or preliminary injunction.”.

(d) Section 315 (D.C. Official Code § 2-1403.15) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “Corporation Counsel” and replacing it with “Attorney General”.

(2) Subsection (b) is amended to read as follows:

“(b) The Attorney General shall institute, in the name of the District, civil proceedings including the seeking of such restraining orders and temporary or permanent injunctions, as are necessary to obtain complete compliance with the Commission's orders. In the event that successful civil proceedings do not result in securing such compliance, the Attorney General shall institute criminal action.”.

(e) A new section 318 is added to read as follows:

“Sec. 318. Concurrent Authority of the Attorney General

“(a) Notwithstanding any provision of this chapter to the contrary, if the Attorney General has any reason to believe that any person is violating the provisions of this act, including general discrimination unrelated to a specific person or instance, the Attorney General, in the name of the District of Columbia, may bring an action in the Superior Court of the District of Columbia.

“(b) The court may grant any relief it deems appropriate, including the restitution of money or property and the relief provided in sections 307 and 313(a). Any penalties recovered shall be deposited in the Litigation Support Fund as established by section 106b of the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.86b).

“(c) In any action under this section, the Attorney General shall not be required to prove damages and the injunction shall be issued without bond.

81 “(d) The Attorney General may intervene in a civil action filed pursuant to this act upon  
82 timely application if the Attorney General certifies that the case is of general public importance.  
83 In that action, the Attorney General shall be entitled to the same relief as if the Attorney General  
84 had instituted the action.

85 “(e) Actions brought pursuant to this section are independent of any other actions,  
86 remedies, or procedures that may be available to an aggrieved party pursuant to any other law.

87 “(f) In the course of an investigation to determine whether to seek relief under this  
88 section, the Attorney General may subpoena witnesses, administer oaths, examine an individual  
89 under oath, and compel production of records, books, papers, contracts, and other documents,  
90 subject to the procedures in section 110a (d) and (e) of the Office of the Attorney General for the  
91 District Columbia Clarification and Elected Term Amendment Act of 2010, effective October  
92 22, 2015 (D.C. Law 21-36; D.C. Official Code § 1-301.88d (d) and (e)). Information obtained  
93 under this section is not admissible in a later criminal proceeding against the person who  
94 provides the evidence.

95 “(g) The Attorney General shall not in any action brought pursuant to this act be awarded  
96 an amount already recovered, however a private party’s settlement of a case under the act shall  
97 not preclude the Attorney General from seeking additional remedies available under the act  
98 based on the same or similar conduct.”.

99 Sec. 3. Applicability; retroactivity.

100 In addition to all future conduct, this act shall apply to all conduct that occurred prior to  
101 the effective date of this act, provided it was violative of the Human Rights Act of 1977,  
102 effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), at the  
103 time it was committed.

104           Sec. 4. Fiscal Impact Statement.

105           The Council adopts the fiscal impact statement in the committee report as the fiscal  
106 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
107 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

108           Sec. 5. Effective date.

109           This act shall take effect following approval by the Mayor (or in the event of veto by the  
110 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
111 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
112 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
113 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



Legal Counsel Division

**MEMORANDUM**

**TO:** James Pittman  
Deputy Attorney General for Legislative & Intergovernmental Affairs  
Office of the Attorney General

**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** January 11, 2019

**SUBJECT:** Legal Sufficiency Review of the "Attorney General Civil Rights Enforcement Clarification Amendment Act of 2019"  
(AE-18-429B)

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**This is to Certify that** this Office has reviewed the above-referenced legislation and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.



Janet M. Robins