

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an temporary basis, the tolling time for FOIA requests and to extend the Mayor’s authority to declare a public emergency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “FOIA Tolling and Public Emergency Continuation Temporary Amendment Act of 2021”.

Sec. 2. The Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.), is amended as follows:

(a) Section 202 (D.C. Official Code § 2-532) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase “Except as provided in paragraph (2) of this subsection” and insert the phrase “Except as provided in paragraphs (2) and (3) of this subsection” in its place.

(ii) Strike the phrase “Sundays, and” and insert the phrase “Sundays, days of the Initial COVID-19 closure, and” in its place.

35 (B) Paragraph (2)(A) is amended by striking the phrase “Sundays, and”
36 and inserting the phrase “Sundays, days of the Initial COVID-19 closure, and” in its place.

37 (C) A new paragraph (3) is added to read as follows:

38 “(3)(A) For requests made during the Initial COVID-19 closure, a public body
39 shall within 45 days (except Saturdays, Sundays, and legal public holidays) of the end of the
40 Initial COVID-19 closure either make the requested public record accessible or notify the person
41 making such request of its determination not to make the requested public record or any part
42 thereof accessible and the reasons therefor.

43 “(B) If the public record requested during the Initial COVID-19 closure is
44 a body-worn camera recording recorded by the Metropolitan Police Department, the
45 Metropolitan Police Department, upon request reasonably describing the recording, shall within
46 60 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such request
47 either make the requested recording accessible or notify the person making such request of its
48 determination not to make the requested recording or any part thereof accessible and the reasons
49 therefor.”.

50 (2) Subsection (d) is amended as follows:

51 (A) Paragraph (1) is amended to read as follows:

52 “(1) In unusual circumstances, the time limits prescribed in subsection (c)(1) and
53 (2) of this section may be extended by written notice to the person making such request setting
54 forth the reasons for extension and expected date for determination. Except for an unusual
55 circumstance set forth in paragraph (2)(D) of this subsection, such extension shall not exceed 10
56 days (except Saturdays, Sundays, days of the Initial COVID-19 closure, and legal holidays) for
57 records requested under subsections (c)(1) of this section and 15 days (except Saturdays,
58 Sundays, days of the Initial COVID-19 closure, and legal holidays) for records requested under

59 subsection (c)(2) of this section. For an unusual circumstance set forth in paragraph (2)(D) of
60 this subsection, such extension shall not exceed 45 days (except Saturdays, Sundays, and legal
61 holidays) after the end of the COVID-19 closure.

62 (B) A new paragraph (2)(D) is added to read as follows:

63 “(D) The need to conduct an on-site review of records that could present a
64 significant risk to health or safety during a COVID-19 closure.

65 (b) Section 207(a) (D.C. Official Code § 2-537(a)) is amended by striking the phrase
66 “Sundays, and” and inserting the phrase “Sundays, days of the initial COVID-19 closure, and” in
67 its place.

68 (c) Section 209 (D.C. Official Code § 2-539) is amended by adding a new subsection (c)
69 to read as follows:

70 “(c) For the purposes of this title, the term:

71 “(1) “COVID-19 closure” means:

72 “(A) A period of time for which the Mayor has declared a public health
73 emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980,
74 effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01); or

75 “(B) A period of time during which a public body is closed due to the
76 COVID-19 coronavirus disease, as determined by the personnel authority of the public body.

77 “(2) “Initial COVID-19 closure” means March 11, 2020 through January 15,
78 2021.”.

79 Sec. 3. Section 7(c-1) of the District of Columbia Public Emergency Act of 1980,
80 effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2306(c-1)), is amended to read
81 as follows:

82 “(c-1) Notwithstanding subsections (b) and (c) of this section, the Council authorizes the
83 Mayor to extend the 15-day March 11, 2020, emergency executive order (Mayor’s Order 2020-
84 046) issued in response to the novel 2019 coronavirus (SARS CoV-2) until January 7, 2022.
85 After the extension authorized by this subsection, the Mayor may extend the emergency order for
86 additional 15-day periods pursuant to subsection (b) or (c) of this section.”.

87 Sec. 4. Fiscal impact statement.

88 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
89 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
90 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

91 Sec. 5. Effective date.

92 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
93 the Mayor, action by the Council to override the veto), a 60-day period of congressional review
94 as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December
95 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
96 Columbia Register.

97 (b) This act shall expire after 225 days of its having taken effect.