

A BILL

25-319

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to clarify the definition of “sexual harassment, to allow withdrawal without prejudice of certain administrative complaints of unlawful discrimination by the District government, to clarify that persons who bring administrative complaints of unlawful discrimination against the District government may be entitled to compensatory damages and reasonable attorney’s fees, to permit withdrawal without prejudice of administrative complaints against private parties after certain determinations are made by the Office of Human Rights, and to permit civil actions that are not limited by proceedings before or findings of the Office of Human Rights or Commission on Human Rights.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this Act may be cited as the “Fairness in Human Rights Administration Amendment Act of 2024”.

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 211(c-2)(2)(B)(i) (D.C. Official Code § 2-1402.11(c-2)(2)(B)(i)) is amended by striking the phrase “sexual nature” and inserting the phrase “sexual nature or that is based on sex, gender, sexual orientation, or gender identity or expression” in its place.

(b) Section 303 (D.C. Official Code § 2-1403.03) is amended as follows:

(1) Subsection (a) is amended to read as follows:

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28 “(a) The Mayor shall establish rules of procedure for the filing, mediation, investigation,
29 conciliation, hearing, and final determination of administrative complaints filed against District
30 government agencies, officials, and employees alleging violations of this act.”.

31 (2) Subsection (b) is amended by striking the phrase “may elect to file” and
32 inserting the phrase “may file” in its place.

33 (3) New subsections (c) and (d) are added to read as follows:

34 “(c)(1) A person who has filed an administrative complaint with the Office against a District
35 government agency, official, or employee may withdraw the complaint by filing a written notice of
36 withdrawal with the Office. A person who withdraws a complainant may only maintain a private
37 cause of action consistent with the provisions of section 316.

38 (2) The Office may fully investigate the circumstances accompanying a withdrawal.

39 “(d) The Office of Human Rights shall have the authority to issue a cease and desist order or
40 impose the remedies set forth in section 313(a)(1)(A)-(E) and (F) upon a final administrative
41 determination that a District respondent violated a provision of this act.”.

42 (c) Section 304 (D.C. Official Code § 2-1403.04) is amended as follows:

43 (1) The section heading is amended to read as follows:

44 “Sec. 304. Filing and withdrawal of complaints; mediation.”.

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

46 “(b)(1) Complaints filed with the Office under the provisions of this act may be voluntarily
47 withdrawn at the request of the complainant by filing a written notice of withdrawal with the Office.

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48 A person who withdraws a complainant may only maintain a private cause of action consistent with
49 the provisions of section 316.

50 “(2) The Office may fully investigate the circumstances accompanying a complainant’s
51 notice of withdrawal.”.

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

53 (1) Subsection (a) is amended by striking the phrase “shall serve, within 15 days of
54 said filing, a copy thereof” and inserting the phrase “shall serve a copy of the complaint” in its
55 place.

56 (2) Subsection (c) is amended to read as follows:

57 “(c) If the Office finds that it lacks jurisdiction over a complaint or that probable cause does
58 not exist, the Director shall issue and serve on the appropriate parties an order dismissing the
59 allegations of the complaint.”.

60 (d) A new section 306a is added to read as follows:

61 “Sec. 306a. Notice of right to file civil action.

62 “The Office shall serve a notice of right to file a civil action upon a complainant whenever:

63 (1) The complainant submitted a written notice of withdrawal before the completion
64 of the Office’s investigation;

65 “(2) The Office dismissed the complaint on grounds of lack of jurisdiction, no probable
66 cause, or administrative convenience; or

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67 “(3) The Office made a probable cause finding and the complainant filed a written
68 notice of withdrawal on or before the 30th day after the close of discovery before the Commission or a
69 Hearing Examiner.”.

70 (d) Section 313 (D.C. Official Code § 2-1403.13) is amended as follows:

71 (1) Subsection (a) is amended as follows:

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

73 (i) The lead-in language is amended as follows:

74 (I) Strike the phrase “upon such respondent” and insert the phrase
75 “upon all the parties” in its place.

76 (II) Strike the phrase “requiring such respondent” and insert the
77 phrase “requiring the respondent” in its place.

78 (i) Subparagraph (E) is amended by striking the phrase “attorney fees” and
79 inserting the phrase “attorneys’ fees and costs” in its place.

80 (B) Paragraph (2) is amended by striking the phrase “attorneys fees” and inserting
81 the phrase “attorneys’ fees and costs” in its place.

82 (C) Paragraph (3) is amended by striking the phrase “served upon the respondent”
83 and inserting the phrase “served upon all the parties” in its place.

84 (2) Subsection (b) is amended by striking the phrase “served on the complainant” and
85 inserting the phrase “served on all the parties” in its place.

86 “Sec. 316. Private cause of action.

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87 (e) Section 316 (D.C. Official Code § 2-1403.16) is amended to read as follows:

88 “(a) Any person claiming to be aggrieved by an unlawful discriminatory practice under this act
89 may file a private cause of action in a court of competent jurisdiction for damages and such other
90 remedies as may be appropriate, consistent with the provisions of this section.

91 “(b)(1) Except as otherwise provided in this section, a private cause of action brought
92 pursuant to this act shall be filed in a court of competent jurisdiction within 2 years after the unlawful
93 discriminatory act, or the discovery thereof.

94 “(2) The timely filing of a complaint with the Office, under this act or under procedures
95 established by the Mayor pursuant to section 303, shall toll the time to file a private cause of action
96 until after the Office has served a notice of right to file a civil action on the complainant pursuant to
97 section 306a.

98 “(c)(1) After filing a complaint with the Office, a person shall maintain all rights to bring suit
99 in any court of competent jurisdiction if:

100 “(A) The person submitted a written notice of withdrawal before the completion
101 of the Office’s investigation; or

102 “(B) The Office dismissed the complaint on grounds of lack of jurisdiction, no
103 probable cause, or administrative convenience.

104 (2) A person who brings a private cause of action pursuant to this subsection shall file
105 suit no later than 90 days after the Office has served the notice of right to file a civil action or within
106 the remaining limitations period referenced in subsection (b) of this section, whichever is longer.

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107 “(d) With the exception of complaints alleging unlawful discrimination in residential real estate
108 transactions brought pursuant to this act or the FHA covered by section 305, if the Office has made a
109 probable cause finding against a respondent, the person may bring a private cause of action only if:

110 “(1) The person submitted written notice of withdrawal to the Office on or before the
111 30th day after the close of discovery before the Commission or a hearing examiner; and

112 “(2) The person filed the cause of action no later than 90 days after the Office has
113 served the notice of right to file a civil action or within the period remaining on the statute of
114 limitations referenced in subsection (b) of this section, whichever is longer.

115 “(e) No person who maintains, in a court of competent jurisdiction, any action based upon an
116 act which would be an unlawful discriminatory practice under this act may file the same complaint
117 with the Office.

118 “(f) The court may grant any relief it deems appropriate, including, the relief provided in §§ 2-
119 1403.07 and 2-1403.13(a), to a person who brings a cause of action pursuant to this section, including
120 an action against the District of Columbia.

121 “(g) A court may consider but shall not be bound by the prior finding, decision, or other record
122 of the Office.

123 “(h) The notice requirement of D.C. Official Code § 12-309 shall not apply to any action
124 brought against the District of Columbia under this section.”.

125 Sec. 3 Applicability.

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126 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget
127 and financial plan.

128 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an
129 approved budget and financial plan, and provide notice to the Budget Director of the Council of the
130 certification.

131 (c)(1) The Budget Director shall cause the notice of the certification to be published in the
132 District of Columbia Register.

133 (2) The date of publication of the notice of the certification shall not affect the
134 applicability of this act.

135 Sec. 4. Fiscal impact statement.

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

139 Sec. 5. Effective date.

140 This act shall take effect following approval by the Mayor (or in the event of veto by the
141 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
142 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
143 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
144 Columbia Register.