

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: October 20, 2020

SUBJECT: Report on Bill 23-38, “Racial Equity Achieves Change (REACH) Amendment Act of 2020”

The Committee of the Whole, to which Bill 23-38, the “Racial Equity Achieves Change Amendment Act of 2020”¹ was sequentially referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

The Committee of the Whole reports favorably on Bill 23-38, the “Racial Equity Achieves Change Amendment Act of 2020,” adopts the Committee Print as approved by the Committee on Government Operations with amendments, and recommends approval by the Council.

RACIAL INEQUITY IN D.C.

By the time the District of Columbia was founded, the system of chattel slavery, and, along with it anti-Blackness, had become firmly entrenched in America.² The laws of the State of Maryland, which were in force in parts of the District pursuant to Congress, included provisions that declared all slaves and descendants of slaves to be slaves “during their natural lives”³ and penalized interracial marriage.⁴ In short order, the anti-Black provisions of the District’s laws were

¹ Formerly the Racial Equity Achieves Results Amendment Act of 2019.

² See, for instance, Berlin, I. (2009). *Many thousands gone: The first two centuries of slavery in North America*. Harvard University Press; Kendi, I. X. (2017). *Stamped from the beginning: The definitive history of racist ideas in America*. Random House.

³ Laws of Maryland, 1715; Chapter 44, Section 22.

⁴ Laws of Maryland, 1715; Chapter 44, Section 24.

expanded by controlling the presence and life of free Black persons in D.C. As early as 1812, free Black persons that wanted to reside in the District had to be issued permits to reside in the District.⁵ If they were permitted to reside in the District, free Black persons could be criminally penalized for everything from playing cards or dice to being out in public past 10:00 p.m.⁶ The laws also restricted the trades they could engage in, denying licenses to free Black persons for anything other than driving carts or carriages.⁷ While these “Black code” laws were formally repealed in the 1860’s and early 1870’s,⁸ the systems, stereotypes, and prejudice that fueled them were left intact. So even as “Black code” laws were being repealed, Congress passed bills that created a segregated school system⁹ and disenfranchised District residents, the latter of which left the Black community with few avenues to defend or advance their interests.¹⁰ As a result, hard-won civil rights protections were scaled back,¹¹ racially restrictive covenants were implemented to restrict Black mobility,¹² and laws that criminalized Black residents for being idle or unemployed re-emerged.¹³

The legacy of these laws, policies and practices lives on today, in part, due to our failure to address the harms done to Black residents. This lack of redress, along with the continued pervasiveness of racial stereotypes and the use of “race-blind” legal and policy frameworks by government institutions, means that racial inequities are left mostly unchallenged. The pernicious effects of this systemic racism can be seen throughout the District today. Patterns of racial segregation persist, with little change over the last 30 years.¹⁴ Black residents are less likely to own a home than their white counterparts, and home values are much lower for Black families.¹⁵ Black workers are more likely to work low-income, low-benefit jobs that leave little potential

⁵ Brown, L. W. (1969). Residence Patterns of Negroes in the District of Columbia, 1800-1860. *Records of the Columbia Historical Society*, Washington, DC, 69, 66-79.

⁶ Ordinances of the Corporation of Washington, 1827, May 31st.

⁷ Ordinances of the Corporation of Washington, 1836, October 29th, Sec. 3.

⁸ An Act for the Release of certain Persons [Black slaves] held to Service or Labor within the District of Columbia, 37th Cong., Sess. 2, ch. 54, 12 Stat. 376; An Act to provide a Government for the District of Columbia, 41st Congress, Sess. 3, ch. 62.

⁹ An Act Providing for the Education of Colored Children in the Cities of Washington and Georgetown, District of Columbia, May 21, 1862.

¹⁰ Asch, C. M., & Musgrove, G. D. (2017). *Chocolate City: A History of Race and Democracy in the Nation's Capital*. UNC Press Books.

¹¹ Green, C.M. *Secret city: A history of race relations in the nation's capital*. Princeton University Press, 2015 (Originally Published in 1967).

¹² Shoenfeld, S. J., & Cherkasky, M. (2017). “A Strictly White Residential Section” The Rise and Demise of Racially Restrictive Covenants in Bloomingdale. *Washington History*, 29(1), 24-41.

¹³ U.S. House. 60th Congress, 2nd Session. H.R. 25392, An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes.

¹⁴ Stuart Butler and Jonathan Grabinisky, “Segregation and concentrated poverty in the nation’s capital,” The Brookings Institute, March 24, 2015

(<https://www.brookings.edu/blog/social-mobility-memos/2015/03/24/segregation-and-concentrated-poverty-in-the-nations-capital/>).

¹⁵ Kijakazi, Kilolo, Rachel Marie Brooks Atkins, Mark Paul, Anne E. Price, Darrick Hamilton, and William A. Darity Jr. 2016. *The Color of Wealth in the Nation's Capital*. Durham, NC: Duke University; Washington, DC: Urban Institute; New York: The New School; Oakland, CA: Insight Center for Community Economic Development.

career growth.¹⁶ Black residents are overrepresented in the criminal justice system.¹⁷ Black residents are more likely to have disabilities or poor physical or mental health.¹⁸ And the life expectancy of Black residents in the District is anywhere from nine to 15 years less than that white residents.¹⁹

Black residents are not the only community impacted by systemic racism, however. Asian and Hispanic communities have also faced segregation, systemic discrimination, and violence.²⁰ Research has found, for instance, that Hispanic residents were more likely to work jobs with earnings below \$35,000,²¹ and that Hispanic populations in the District are more likely to have poor health.²² These disparities are even greater for Hispanic immigrants, who make up nearly 40% of the District's immigrant population.²³ Similarly, Asian residents of the District are more likely to live in poverty²⁴ and more likely to have a disability than their white counterparts.²⁵ These findings shine a light

OPERATIONALIZING RACIAL EQUITY IN GOVERNANCE

In order to reverse these racial disparities, the Committee of the Whole believes that the Council must create mechanisms to intentionally analyze the racial impacts of policies, practices and procedures. The Committee print does this through several different mechanisms. First, the bill establishes an Office of Racial Equity that will be tasked with developing and advancing the District's goals toward achieving racial equity, including developing annual metrics and a Racial Equity Action Plan. Second, it requires the Office of Human Rights and the D.C. Department of Human Resources to coordinate, develop and implement racial equity training for all District government employees and member's the District's boards and commissions. Third, it includes a sense of the Council to establish a racial equity program. Finally, the bill requires the Office of

¹⁶ Doni Crawford and Kamolika Das. Jan. 28, 2020. *Black Workers Matter*. D.C. Fiscal Policy Institute (<https://www.dcfpi.org/all/black-workers-matter/>).

¹⁷ See, for instance, *District of Columbia Custodial Population Study: Seeking Alignment Between Evidence Based Practices and Jail Based Reentry Services*. Justice Research and Statistics Association and the Moss Group, Inc. (https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/page_content/attachments/DC%20Custodial%20Population%20Study%2009.2017.pdf).

¹⁸ See, for instance, *District of Columbia Behavioral Risk Factor Surveillance System: 2017 Annual Health Report*. DC Department of Health. (<https://dchealth.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/BRFSS%202017%20Annual%20Report%20Final.pdf>).

¹⁹ District of Columbia Community Health Needs Assessment. D.C. Department of Health.

²⁰ See, for instance, Rosales, F. A. (Ed.). (2000). *Testimonio: A documentary history of the Mexican American struggle for civil rights*. Arte Público Press; Kurashige, L. (2016). *Two faces of exclusion: The untold history of anti-Asian racism in the United States*. UNC Press Books.

²¹ Hendy, L. (2017). Racial Inequities in the Washington, DC, Region (2011-2015). The Urban Institute. (https://www.urban.org/sites/default/files/publication/95401/2017.12.28_regional_equity_finalized_1.pdf).

²² McClure, H., & Jerger, K. (2005). *The state of Latino health in the District of Columbia*. Council of Latino Agencies.

²³ *Data Profiles of Immigrants in the District of Columbia: Latino Immigrants*. (2018). The Urban Institute.

²⁴ Author analysis of 2018 American Community Survey data. IPUMS USA, University of Minnesota, www.ipums.org.

²⁵ Jordan, C. (2017). *2015 Disability Characteristics Among D.C. Residents*. District of Columbia State Data Center. (<https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/2015%20Disability%20Characteristic%20Among%20DC%20Residents.pdf>).

Racial Equity to develop a racial equity tool to help District agencies incorporate racial equity into their operations, programs, policies, and regulations.

The Commission on Racial Equity, Social Justice, and Economic Inclusion

In the Government Operations print, Section 104 would create a Commission on Racial Equity, Social Justice, and Economic Inclusion. The Committee believes that the creation of an independent commission is unnecessary, and may not achieve the results intended. There are already numerous commissions, committees and boards that are charged with advising the Mayor, Council and District agencies on the views and needs of marginalized communities, such as the Commission on African American Affairs, the Commission on Latino Community Development, and the Commission on Asian and Pacific Islander Community Development.²⁶ Instead, the Committee believes that several of the duties – namely advising the Council and collectin public input – of the Commission in the Government Operations print are better suited for other entities. For instance, given that the Office of Racial Equity will be tasked with creating a Racial Equity Plan for the District, the Committee believes that the Office is in a much better position to “work with District agencies to promote inter-agency collaboration, problem-solving, and cooperation relating to racial reequity, social justice, and economic inclusion...”²⁷ The Committee also believes that the Commission envisioned in the Government Operations print can never be fully independent and will be dependent on the Executive for both operational resources (the dollars budgeted for the Commission were loaded into the Office of the City Administrator) and for the commissioners that would be appointed by the Mayor.

As such, several of the duties that were part of the Commission have been moved to the Office of Racial Equity. However, to preserve the roles of advising the Council and allowing for public input for implementing racial equity, the Committee recommends two advisory bodies – one to advise the Council, appointed by the Council, made up of the experts that the Council believes can provide the advice necessary; and one to advise the Executive’s Office of Racial Equity to ensure input from the public in crafting the Racial Equity Action Plan and on matters of racial equity.

The Office of Racial Equity

The Committee Print maintains the position of the Office of Racial Equity within the Office of the City Administrator to ensure that it has the resources and social capital it needs to be effective in its infancy. Among the Office’ many important duties are the creation of a racial equity tool and the creation of a racial equity action plan. The racial equity tool is meant to help the Executive analyze the racial impact of programs, policies, rules and regulations, while the action plan is meant to articulate the vision and goals of the District as it relates to racial equity, as well as the strategies the District will use to achieve the vision and goals.

²⁶ D.C. Official Code § 3-1441, D.C. Official Code § 2-1321, and D.C. Official Code § 2-1374.

²⁷ Committee Print, Committee on Government Operations, July 15, 2020, Sec. 104(b)(2).

In 2005, the City of Seattle established the Race and Social Justice Initiative.²⁸ Former Mayor Greg Nickels created the initiative to “eliminate race-based disparities across the city.”²⁹ As part of the Initiative, the Mayor required the “Executive Change Team” in his cabinet to create a Racial Equity Toolkit that must be used by all departments to when drafting budget and policy proposals for Mayoral consideration.³⁰ The toolkit consists of six steps: 1) setting outcomes, 2) involving stakeholders and analyzing data, 3) determining benefits and/or burdens, 4) developing strategies to minimize harms, 5) establishing mechanisms for accountability and evaluation, and 6) sharing the analysis with others.³¹ In addition to the toolkit, each department in the City is required to develop a racial equity action plan. Action plans have been created in numerous jurisdictions since, and while the contents and needs addressed by these plans vary by jurisdiction, the Government Alliance on Race and Equity suggests that they should include the following:³²

- Clear, measurable goals and objective that the action plan aims to achieve;
- Resources and activities that will be necessary to accomplish the goals and objectives;
- A timeline for when each objective and goal will be met; and
- The outcomes that are expected from accomplishing the goals and objectives of the plan.

For example, in the City of Philadelphia’s most recent racial equity action plan, one of the goals is to increase the membership and representation of persons of color in the building trades.³³ To accomplish this, the plan details five objectives, including identifying barriers to the building trades for persons of color, and the development specific programs meant to serve as a pipeline for entry into the building trades.³⁴ Under each objective, there are specific actions that the city is committing to make, a timeline to complete the actions, and outcomes they will track to measure the success of the plan. The Committee also notes that, in creating a racial equity action plan, it is critical that the Office of Racial Equity engage in substantial public engagement, particularly with communities of color in the District. Community buy-in on the goals, objectives, and outcomes of the plan will be crucial to ensuring that the plan is successful.

Council Equity Assessment Program

The Government Operations print would codify a Council Equity Assessment Program via Section 103, a key component of which would be the issuance of racial equity impact assessments (REIAs) by a Council Equity Coordinator. The Committee of the Whole supports the creation of this program, but believes that it should be addressed through the adoption of an amendment to the Council Rules, a draft of which the Committee has attached to this report that the Committee recommends Council adopt. Instituting this program via a Council Rule preserves the

²⁸ Seattle Race and Social Justice Initiative Report 2008: Looking Back, Moving Forward. City of Seattle, Office of Civil Rights. (<https://www.seattle.gov/Documents/Departments/RSJI/Jan20FINALRSJIrept.pdf>).

²⁹ *Id.*, pg. 20.

³⁰ *Id.*

³¹ City of Seattle, Race and Social Justice Initiative Racial Equity Toolkit. (https://www.seattle.gov/Documents/Departments/RSJI/RacialEquityToolkit_FINAL_August2012.pdf).

³² Curren R., Nelson, J., Marsh, D.S., Noor, S., Liu, N. (2016). “Racial Equity Action Plans, A How-to Manual.”: Haas Institute for a Fair and Inclusive Society, University of California, Berkeley.

³³ City of Philadelphia Racial Equity Action Plan (2016-2020), pg. 1, Desired Result 1.

³⁴ *Id.*

independence of the Council and provides for greater flexibility should elements of the program need to be changed as it matures. As written, the draft rule would require the Council Equity Coordinator to issue REIAs for certain legislation at the time of committee markup. It also articulates what information should be included in a REIA.

Much like environmental impact statements, REIAs are a mechanism to provide policymakers with detailed analysis of the potential impacts of a bill, except that, in the case of REIAs, the focus is on the impact a bill may have on different racial and ethnic groups. To date, five states have implemented laws, rules or policies that require or allow REIAs to be issued: Connecticut, Florida, Iowa, New Jersey, and Oregon. As shown in Table 1, most states only require REIAs for certain criminal justice policies. Bills that would require REIAs for certain legislation are currently pending in Arizona, Minnesota, Oklahoma, and Pennsylvania.³⁵

Table 1. Racial Equity Impact Statements by State

State	Year Adopted	Requirement
Connecticut	2008	Statements are required for legislation that could increase or decrease pretrial or sentenced populations of correctional facilities in the state. ³⁶
Florida	2019	Statements can be requested for legislation addressing criminal justice issues. ³⁷
Iowa	2008	Statements are required for legislation that creates a new criminal offense, changes existing criminal offenses, or changes existing sentencing, parole, or probation procedures. ³⁸
Oregon	2013	Statements may be requested for any legislation that is related to crime and likely to have an impact on the criminal justice system. ³⁹
New Jersey	2018	Statements are required for legislation that would affect pretrial detention, sentencing, probation or parole policies. ⁴⁰

On a local level, the Committee could only find one jurisdiction that has implemented REIAs: Montgomery County, Maryland. Unlike the states in Table 1, Montgomery County requires REIAs for each bill under consideration by the Montgomery County Council.⁴¹ The

³⁵ Senate Bill 1363 (Arizona), Senate Bill 108B (Minnesota), Senate Bill 1184 (Oklahoma), and Senate Bill 1197 (Pennsylvania).

³⁶ Connecticut Gen. Stat. § 2-24b.

³⁷ Senator Randolph Bracy Paves Way for Consideration of Racial & Ethnic Impact Data in Florida Senate, Press Release, June 11, 2019

(<https://www.flsenate.gov/Media/PressReleases/Show/3122?eType=EmailBlastContent&eId=f8e7d508-4e75-44cd-bcdf-4fd41fbc4300>).

³⁸ Iowa Code Ann. § 2.56.

³⁹ Oregon Rev. Stat. § 137.683.

⁴⁰ New Jersey Gen. and Rev. Stat. § 52:11-57.1.

⁴¹ Montgomery County Code § 2-81C.

REIAs are drafted by the Director of the Office of Legislative Oversight, a legislative office that produces research, economic impact statements, and other legislative reports for the Council. The Director must submit REIAs at least seven days before a public hearing on each bill introduced by the Council President at the request of the County Executive, and no more than 21 days after a bill sponsored by a Councilmember is introduced.⁴²

The Committee believes the content and analysis presented in REIAs will be critical to the quality of Council deliberations. These assessments cannot be simple declarative statements on the potential impacts of a particular bill. Rather, they must wrestle with the complexity of determining what is equitable. As an example, consider what are known as “sin taxes.” These are taxes levied on certain goods, such as tobacco, alcohol, etc., that are known to have adverse health impacts on people who consume them. Research suggests that these taxes are effective tools to decrease the consumption of cigarettes,⁴³ alcohol,⁴⁴ and sugar-sweetened beverages.⁴⁵ Yet we also know that these taxes are regressive in nature, disproportionately impacting low-income individuals and households that consume these products because a larger share of their income is used to purchase said products.⁴⁶ Tax increases on these items may also lead some consumers to seek lower-cost substitutes or alternatives.⁴⁷ To determine whether a proposed increase on a sin tax advances racial equity then, a racial equity impact statement should examine:

- Patterns of consumption by race and ethnicity in the District;⁴⁸
- The extent to which the tax increase would impact the behavior of consumers;
- Potential unintended consequences for increasing taxes, and whether those unintended consequences would disproportionately impact persons of color; and
- How revenues collected by the tax increase would be used.

Other legislative matters, such as bills that are related to development projects, may require greater engagement with agencies, residents, advocacy groups to fully account for the potential equity impacts of the bill. In Montgomery County, Maryland, the Office of Legislative Oversight

⁴² *Id.*

⁴³ Wilson, L. M., Avila Tang, E., Chander, G., Hutton, H. E., Odelola, O. A., Elf, J. L., ... & Apelberg, B. J. (2012). Impact of tobacco control interventions on smoking initiation, cessation, and prevalence: a systematic review. *Journal of environmental and public health*, 2012.

⁴⁴ Elder, R. W., Lawrence, B., Ferguson, A., Naimi, T. S., Brewer, R. D., Chattopadhyay, S. K., ... & Task Force on Community Preventive Services. (2010). The effectiveness of tax policy interventions for reducing excessive alcohol consumption and related harms. *American journal of preventive medicine*, 38(2), 217-229.

⁴⁵ See, for instance, Bleich, S. N., Lawman, H. G., LeVasseur, M. T., Yan, J., Mitra, N., Lowery, C. M., ... & Roberto, C. A. (2020). The Association Of A Sweetened Beverage Tax With Changes In Beverage Prices And Purchases At Independent Stores: Study compares changes in sweetened beverage prices and purchases before and twelve months after tax implementation, at small, independent stores in Philadelphia. *Health Affairs*, 39(7), 1130-1139.

⁴⁶ See, for instance, Hoffer, A., Gvillo, R., Shughart, W. F., & Thomas, M. D. (2015). *Regressive Effects: Causes and Consequences of Selective Consumption Taxation*.

⁴⁷ See, for instance, Moore, S. C. (2010). Substitution and complementarity in the face of alcohol-specific policy interventions. *Alcohol and Alcoholism*, 45(5), 403-408; Chiou, L., & Muehlegger, E. (2014). Consumer Response to Cigarette Excise Taxes. *National Tax Journal*, 67(3), 621.

⁴⁸ Publicly available microdata such as the Center for Disease Control and Prevention’s Behavioral Risk Factor Surveillance Survey (BRFSS), the Bureau of Labor Statistics’ Consumer Expenditure Survey (CES) and Current Population Survey Tobacco Use Supplement could be used to analyze consumption in the District.

has produced a legislative review tool that digs deeper into the process of creating a racial equity impact assessment, including stakeholder engagement.⁴⁹

II. IMPACT ON EXISTING LAW

Bill 23-38 would establish a new Office of Racial Equity under the City Administrator. The bill would amend The Office of Human Rights Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-308) to create a new requirement for racial equity training for District government employees. It amends Chapter 3 of Title 47 of the D.C. Official Code to require that the Office of Racial Equity develop a racial equity tool, describe how the tool is to be used, and require a summary of how the Mayor's annual budget advances racial equity, including additional agency performance metrics.

III. FISCAL IMPACT

Funds are sufficient in the fiscal year 2021 budget and proposed fiscal year 2022 through fiscal year 202 budget and financial plan to implement the provisions of the proposed legislation. Sufficient funds were included in the fiscal year 2021 budget to implement all provisions of the act, as indicated in the attached October 6, 2020 fiscal impact statement.

IV. SECTION-BY-SECTION ANALYSIS

- Section 1 States the short title of Bill 23-22.
- Section 2 Definition of racial equity.
- Section 3
- (a) Establishes the Office of Racial Equity.
 - (b) Creates the position of Chief Equity Officer within the Office. The position shall be appointed by the Mayor with the advice and consent of Council.
 - (c) Outlines the duties of the Office, including coordinating with Executive agencies in development of annual metrics for the Racial Equity Action Plan, and advising the Council, Mayor and District agencies about racial equity.
 - (d) Directs the Chief Equity Officer to submit a multi-year Racial Equity Action Plan to the Mayor and Council by October 1, 2022 and annually thereafter. Also directs the Office to hold a series of public engagement

⁴⁹ Montgomery County Council, Office of Legislative Oversight, Racial Equity and Social Justice Legislative Review Tool (<https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/RESJLegislativeTool.pdf>).

meetings on the plan.

(e) Directs the Office to accept public comment on any functions or policies related to racial equity.

(f) Directs the Office to establish a Racial Equity Advisory Board consisting of 7 to 10 members.

Section 4 Amends Section 206b of the Human Right Act to require racial equity training for all District employees.

Section 5 (a) Amends D.C. Code § 47-308.01 by redesignating existing paragraphs and inserting a new paragraph that defines the term racial equity.

(b) Amends D.C. Code § 47-308.01 by requiring the development of a racial equity tool and describes how the tool is to be used in furtherance of advancing racial equity through performance and budget processes.

(c) Amends D.C. Code § 47-308.02 to require the Mayor to establish at least one performance measure related to racial equity for each agency.

(d) Amends D.C. Code § 47-308.03(c)(1) by inserting language regarding performance measures for racial equity.

Section 6 (a) Establishes a Council Racial Equity Commission to advise the Council on matters of racial equity.

(b) A sense of the Council that the Council should amend its rules to establish a Racial Equity Program that includes racial equity training, and conducting racial equity impact statements.

Section 7 Adopts the Fiscal Impact Statement.


Section 8 Establishes the effective date by stating the standard 30-day Congressional review language.

V. COMMITTEE ACTION

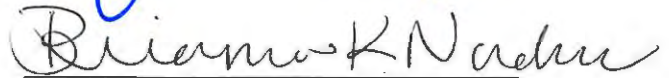
VI. ATTACHMENTS

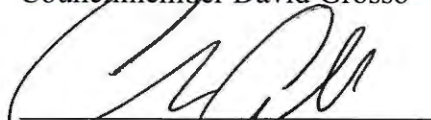
1. Bill 23-38 as introduced.
2. Draft Council Rule.
3. Committee on Government Operations report on Bill 23-38 without attachments.
4. Fiscal Impact Statement for Bill 23-38.
5. Legal Sufficiency Determination for Bill 23-38.
6. Comparative Print for Bill 23-28.
7. Committee Print for Bill 23-38.

1 
2 Chairman Phil Mendelson


Councilmember Kenyan R. McDuffie

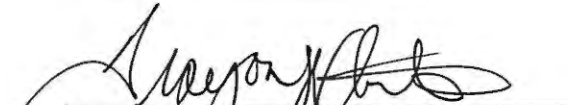
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5 Councilmember David Grosso



6 Councilmember Brianne K. Nadeau

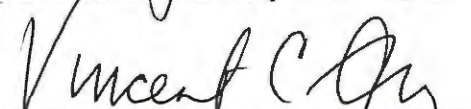
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9 Councilmember Charles Allen



10 Councilmember Anita Bonds


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13 Councilmember Robert C. White, Jr.


14 Councilmember Trayon White, Sr.

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17 Councilmember Brandon T. Todd


18 Councilmember Vincent C. Gray

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28 A BILL
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31 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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34 To amend the Office of Human Rights Establishment Act of 1999 to require the Office of
35 Human Rights and the Department of Human Resources to develop and provide racial
36 equity training for District employees, to amend Chapter 3 of Title 47 of the District of
37 Columbia Official Code to require the Office of Budget and Planning to design and
38 implement a racial equity tool to aid in eliminating disparities among District employees
39 based on race, and, beginning in fiscal year 2020, to require the Mayor to include racial
40 equity-related performance measures in the development of an agency's annual
41 performance plans, and to require the Mayor to include an evaluation of the use of the
42 racial equity tool in the annual performance accountability reports.

43
44 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

45 act may be cited as the "Racial Equity Achieves Results Amendment Act of 2019".

46 Sec. 2. The Office of Human Rights Establishment Act of 1999, effective October 20,
47 1999 (D.C. Law 13-308; D.C. Official Code § 2-1411.01 *et seq.*), is amended by adding a new
48 section 206b to read as follows:

49 “Sec. 206b. Racial equity training.

50 “The Office of Human Rights (“OHR”), in conjunction with the Department of Human
51 Resources (“DCHR”) shall develop and provide, on an on-going basis, racial equity training for
52 employees of the District of Columbia. DCHR and OHR shall conduct workshops for
53 management level positions and shall ensure that all agencies have the capacity to respond
54 effectively to instances of racial discrimination.”.

55 Sec. 3. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as
56 follows:

57 (a) Section 47-308.01 is amended by adding a new subsection (h) to read as follows:

58 “(h)(1) The Office of Budget and Planning, in consultation with the Office of the City
59 Administrator, shall design a racial equity tool that integrates explicit consideration of racial
60 equity into an agency’s operation and performance-based budget, which, beginning in fiscal year
61 2020 and for each subsequent fiscal year, shall be implemented and used to review an agency’s
62 programs, policies, and practices, and to ensure alignment between departmental and
63 Districtwide programs and initiatives.

64 “(2) At a minimum, a racial equity tool shall:

65 “(A) Identify clear strategic initiatives, objectives, and measurable
66 outcomes;

67 “(B) Identify who will benefit or be burdened by a given policy or
68 programmatic decision;

69 “(C) Examine potential unintended consequences of a policy or
70 programmatic decision and develop a strategy to advance racial equity and mitigate unintended
71 negative consequences; and

72 “(D) Develop a mechanism for successful implementation and
73 evaluation of programs aimed at reducing disparate racial outcomes.”.

74 (b) Section 47-308.02 is amended by adding a new subsection (g) to read as follows:

75 “(g) Beginning in fiscal year 2020, and for each subsequent fiscal year, the Mayor, or
76 designee, shall, in consultation with an agency’s stakeholders, establish at least one relevant
77 performance measure, objective, or strategic initiative to track over time outcomes related to an
78 agency’s progress towards achieving racial equity.”.

79 (c) Section 47-308.03(c)(1) is amended by striking the phrase “agency’s performance on
80 its activities for” and inserting the phrase “agency’s performance on its activities, including its
81 use and implementation of racial equity tool, designed and implemented pursuant to § 47-
82 308.01(h),” in its place.

83 Sec. 4. Fiscal impact statement.

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

87 Sec. 5. Effective date.

88 This act shall take effect following approval by the Mayor (or in the event of veto by the
89 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
90 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
91 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1), and publication in the District of
92 Columbia Register.

ARTICLE X—RACIAL EQUITY PROGRAM.

1001. ESTABLISHMENT AND DIRECTOR.

There is established a Council Office of Racial Equity under the Secretary to the Council which shall be managed by a Director of Racial Equity.

1002. DUTIES.

The Office shall be responsible for:

(1) Producing racial equity training materials and providing ongoing racial equity training for Councilmembers and staff;

(2) Conducting Racial Equity Impact Assessments pursuant to Rule 1003;
and

(3) Coordinating with the Executive and Judicial branches on matters of advancing racial equity.

1003. RACIAL EQUITY IMPACT ASSESSMENTS.

(a) Except as provided for under subsection (b) of this Rule, a Racial Equity Impact Assessment shall be conducted on a measure to be marked up by a committee and is required at the time of consideration of the measure by the committee. A committee shall not mark up a bill unless a Racial Equity Impact Assessment for the bill has been circulated to all Councilmembers prior to vote on the measure by the committee.

(b) This rule shall not apply to:

(1) Symbolic public space designations;

(2) Street or Alley closures, or highway plan amendments;

(3) Mayoral nominations;

(4) Council appointments;

(5) Sense of the Council resolutions;

(6) General-obligation bond acts and revenue anticipation notes acts;

(7) Revenue bond resolutions;

(8) Interstate compacts;

(9) Transfers of jurisdiction;

(10) Resolutions regarding reprogramming requests, contracts, or rules; or

(11) Enactment legislation.

(c)(1) The purpose of a Racial Equity Impact Assessment is to offer Councilmembers and independent assessment of the potential racial equity impact of enacting the measure.

(2) Each Racial Equity Impact Assessment shall include a statement of the bases for the estimated impact and shall describe the sources, assumptions, and methodologies used in arriving at the assessment.

(3) Where a Racial Equity Impact Assessment identifies a negative impact on racial equity, the assessment may policy proposals to mitigating such negative impact.

(d) A committee shall provide to the Office a draft committee print to be marked up not later than 5 business days before the scheduled markup, provided that a committee shall endeavor to provide the office additional time as may be necessary taking into account a measure's complexity.

(e) The Office may, at the request of a committee chair, conduct a Racial Equity Impact Assessment on any matter under the requesting committee's jurisdiction, provided that such assessment does not inhibit the issuance of assessments required under subsection (a) of this Rule.

(f) The findings of a Racial Equity Impact Assessment shall be advisory to each committee and on the Council.

(g) Each Racial Equity Impact Assessment shall be made part of the legislative file maintained pursuant to Rule 806.

(h) The framework for the racial equity impact assessment shall be developed by the Director in close consultation with individuals and organizations with expertise in racial equity analysis.

1004. PUBLIC ENGAGEMENT.

The Office shall accept public comment on any aspect of its duties or on matters related to racial equity before the Council.

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Councilmember Brandon T. Todd *B-T. Todd*
Chairperson, Committee on Government Operations

DATE: July 15, 2020

SUBJECT: Report on B23-038, the “Racial Equity Achieves Real Change Amendment Act of 2020”

The Committee on Government Operations, to which Bill 23-038, the “Racial Equity Achieves Rea Change Amendment Act of 2020” was referred, reports **favorably** thereon with amendments, and recommends its approval by the Council of the District of Columbia.

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I. BACKGROUND, PURPOSE AND EFFECT

Bill 23-038, the “Racial Equity Achieves Results Amendment Act of 2019”, was introduced on January 8, 2019, by Councilmember Kenyan McDuffie, along with Councilmembers Todd, Nadeau, Bonds, T. White, Gray, Evans, Grosso, Allen, R. White, Silverman, and Chairman Mendelson. As introduced, Bill 23-038 requires the Office of Human Rights and the Department of Human Resources to develop and provide racial equity training for District employees. Among other things, the legislation requires the Office of Budget and Planning to design and implement a racial equity tool to aid in eliminating disparities based on race. The Mayor is required to include racial equity-related performance measures in the development of an agency's annual performance plans.

At the Committee’s public hearing on B23-038, members of the public unanimously spoke in support of the legislation, with the majority calling for the bill to be amended, prior to mark-up, to be bolder and more proactive in using innovative tools to address racial disparities in the District. One such tool that was recommended among the overwhelming majority of witnesses, called for the inclusion of a racial equity impact assessment (REIA) for certain eligible legislative measures.¹ Many of the witnesses at the hearing, in addition to written testimony submitted to the Committee, advocated for changes and additions put forth by the D.C. Initiative on Racial Equity and Local Government.

Decades of structural and institutional racism against black people in the District and across this country has created widespread racial inequities.² These inequities are pervasive and have gone unchecked for far too long. On April 16, 1862, President Abraham Lincoln signed an Act abolishing slavery in the District of Columbia and by doing so, freed 3,100 women, men, and children. Ironically, the Act allowed for slaveowners to be compensated up to \$300 for each individual they had legally owned. Roughly 979 owners were paid out for 2,989 slaves.³ Noted abolitionist, William Lloyd Garrison had argued at the National Anti-Slavery Convention in Philadelphia in 1833 that compensation, rather, “should be given to the outraged and guiltless slaves, and not to those who have plundered and abused them.” However, freedmen and women and their descendants would only continue to experience oppressive and racist systems that would evolve over the next decade but end in the same result of disparate outcomes.⁴

In the District of Columbia, like most of the country, these oppressive structural systems became institutionalized. Inherently racist practices such as segregation, redlining, unequal education, the disproportionate policies of the criminal justice system, and discrimination in banking and government contracting were perpetuated in both Federal and local policies. As a result, disparate outcomes persist across nearly every indicator of success including in education, criminal justice, employment, housing, environmental justice, health, and business.

With the onset of COVID-19, it has become evident that for many black residents across the District, there exists two pandemics, one being COVID-19, the other, racism. These issues, unfortunately, are not new. In fact, one could argue, as Ibram X Kendi does, that racism has its roots in the foundation of this country. He would not be alone in that argument, and in fact joins a long list of historians and scholars from W.E.B. Du Bois, to Robin D.G. Kelly, David Blight, and Michelle Alexander.

¹ See “McDuffie REI Bill – SignOn Letter Final March 11, 2019” submitted by the DC Initiative on Racial Equity and Local Government, on April 1, 2019.

² Kendi, Ibram, *Stamped from the Beginning: The Definitive History of Racist Ideas in America (National Book Award Winner)*, New York: Nation Books, 2016.

³ See the District of Columbia Emancipation Act, <https://www.archives.gov/exhibits/featured-documents/dc-emancipation-act>; Tera Hunter, “When Slaveowners Got Reparations,” April 16, 2019. *The New York Times*. <https://www.nytimes.com/2019/04/16/opinion/when-slaveowners-got-reparations.html>

⁴ See Blackmon, Douglas. *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*, New York: Anchor Books, A Division of Random House, Inc, 2008.

Now is the time that local governments can and should take bold steps and remedies to correct the wrongs created by centuries of racist policies that have negatively affected black residents. Policies such as segregation, redlining, and predatory lending practices and their devastating impact on black communities certainly merit conversations of economic redress, but at the very least underscore the importance of righting the wrongs of the ever-present manifestations of centuries of systemic and institutionalized racism.

As the Nation's Capital, the District is well positioned to be a model city that eliminates racial disparities and confronts racial injustice. Bill 23-038 brings the District into alignment with surrounding jurisdiction such as Montgomery County, Fairfax, and Alexandria, that have all taken recent steps to implement racial equity initiatives over the past few years.⁵

This legislation moves the work of the District on racial equity forward in bold and meaningful steps and reimagines how government works by imbedding racial equity throughout every aspect of the District government. The Committee Print (Print) improves upon the introduced version in several critical ways, including: 1.) Requires that permanent legislative measures include racial equity impact assessments; 2.) Establishes the Council Equity Coordinator Program within the Council; 3.) Requires racial equity training for all boards and commissions; 4.) Defines racial equity; and 5.) Establishes the Commission on Racial Equity, Social Justice, and Economic Inclusion to ensure accountability and transparency, work with District agencies, and to advise and make recommendations to the Council and the Mayor on policies and programs such as economic redress, for example, or others necessary to reduce racial, social, and economic inequity, and other negative pervasive effects created by the institution of slavery and exacerbated by decades of racist policies and government neglect.

On June 25, 2020, the Committee on Business and Economic Development, chaired by Councilmember Kenyan McDuffie unanimously approved its committee report, which transferred out \$1.32 million and 10 FTEs to fund the provisions of this Act. This enhancement includes \$817,150 and 6 FTEs to the Office of the City Administrator and the Commission, 3 FTEs to the Council, and 1 FTE to OHR. The Committee also transferred out \$470,000 to the Committee on Government Operations for the construction and implementation of the first ever, racial equity dashboard to track racial disparities in the District.

The Committee believes the revised B23-038 is a great and effective step towards achieving the most equitable District of Columbia possible. The Committee looks forward to seeing the provisions within the legislation in place.

II. LEGISLATIVE CHRONOLOGY

January 8, 2019

B23-038 is introduced by Councilmember McDuffie.

⁵ See [Bill 27-19](#), "Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee Established"; or "Jaqueline N. Tucker Named City of Alexandria's First Race and Social Equity Officer," https://www.alexandriava.gov/news_display.aspx?id=112864. Accessed July 13, 2020.

January 8, 2020	B23-038 was referred to the Committee on Government Operations.
January 18, 2019	Notice of Intent to Act on B23-038 is published in the <i>District of Columbia Register</i> .
March 22, 2019	Notice of Public Hearing on B23-038 is published in the <i>District of Columbia Register</i> .
April 25, 2019	The Committee on Government Operations held a public hearing on B23-038.
July 15, 2020	Consideration and vote on B23-038 by the Committee on Government Operations.

III. POSITION OF THE EXECUTIVE

Ventris C. Gibson, Director of the D.C. Department of Human Resources, was the first of two government witnesses to testify on B23-038. Director Gibson began her testimony by stating the District government's commitment to create a government that is diverse and inclusive of all employees, while also noting that inequity is still present. She expressed the belief that in order to achieve equitable outcomes for all District employees, the first step is to ensure a common understanding of explicit and implicit bias, and the differences between individual, institutional, and structural racism, by having candid and open conversations, training employees and managers, and building community relationships.

Director Gibson continued by summarizing what B23-038 requires of the Department of Human Resources and that the department agrees with the intent of the bill and would be committed to partnering with the Office of Human Rights to develop, pilot, and implement a training series that focuses on closing the racial equity gap.

Director Gibson wrapped up her testimony by detailing the steps that the Department of Human Resources has already taken to include racial equity in its training of District government employees. She discussed a few courses that are offered on-demand through the Department's e-Learning system that address racial equity and inclusion, with the intent on exposing employees to the meaning of diversity, the benefits of a diverse and inclusive organization, and barriers that we should address to realize the benefits of a diverse workforce. Director Gibson also testified that the Department of Human Resources has revised the District's hiring practices to remove barriers for previously incarcerated applicants seeking employment with the District government. These actions include prohibiting District agencies from asking candidates for their salary history when extending an offer of employment.

Hnin Khaing, General Counsel for the Office of Human Rights, was the second of two government witnesses who testified on Bill 23-038. Ms. Khaing began her testimony by detailing work that the Office of Human Rights currently does in dealing with discrimination. She discussed the EEO Counseling program which trains approximately 200 employees every year on workplace discrimination laws and how to facilitate an effective conflict resolution process for addressing claims of discrimination. She mentioned that this includes programs focused on equal opportunities in contact opportunities and how the Office has provided cultural competency training for over 10,000 District employees, as required by the Language Access Act.

Ms. Khaing then went into depth on what the Office of Human Rights currently does around racial equity and provided several examples. The first example Ms. Khaing provided was the Office of Human Rights' participation in the Consumer Health Foundation's District-based Racial Equity Working group, a coalition of community-based organizations, national organizations and District government agencies focused on advancing racial equity. She mentioned one particular event, held in December 2017, in which the coalition partnered with Georgetown University to host a day-long workshop aimed at introducing a growing movement to create an effective and inclusive democracy that advances racial equity. The second example Ms. Khaing mentioned was a March 2016 launch of the District Government Equity and Inclusion Pilot Project in partnership with the National Coalition Building Institute (NCBI). This led to a 2.5-day course to build capacity by providing District professionals with the skills and leadership to conduct workshops in areas of addressing bias and prejudice, managing inter-group conflict, and increasing cross-cultural communication on broader equity and identity issues. This led to over 15 equity and inclusion trainings for District employees in the three years following the course. She also mentioned the Office's involvement with the Metropolitan Council of Government's Chief Administrative Officer' Racial Equity Work Group.

After briefly summarizing what B23-038 would do, Ms. Khaing expressed that the Office of Human Rights is supportive of the intent of the bill and that if passed, the Office would work diligently with DC Human Resources to fulfill its mandate. On behalf of the Office, she asked that the Council define "racial equity" in order to guide the development of racial equity trainings and workshops, the racial equity tool, and racial equity-related performance measures. She concluded by stating that the Office of Human Rights would look forward to working with the Council, DC Human Resources, and the community to strengthen the training portion of the legislation.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee did not receive testimony or comments from Advisory Neighborhood Commissions.

V. SUMMARY OF TESTIMONY

On Thursday, April 25, 2019, the Committee on Government Operations held a public hearing on Bill 23-038. A video recording of the public hearing can be viewed at oct.dc.gov.

Additional testimony and correspondence received by the Committee is also included in Attachment E.

James Shabazz, *Organized Vendors for Economic Cooperation (OVEC)*, testified in support of the legislation, stressing that it is not enough, and more must be done.

John Cheeks, *Executive Director, United States Adjustment and Recover Act for District of Columbia*, testified in support of the legislation. Mr. Cheeks also advocated for funding to identify descendants of slaves in the District so that they can receive reparations.

Shirley Rivens Smith, *President, North Woodridge Citizen's Association*, testified in support of the legislation.

Ruby Steigerwald, *Public Witness*, testified in support of the legislation, while also stressing that she believes the legislation should be strengthened by incorporating racial equity as a tool in DC the Comprehensive Plan.

Kilolo Kijakazi, *Urban Institute*, testified in support of the legislation, highlighting statistics on racial inequity in the District.

Leah Hendey, *Urban Institute*, testified in support of the legislation, highlighting statistics on racial inequity in the District.

Yanique Redwood, *CEO, Consumer Health Foundation*, testified in support of the legislation, asking the Council to take more steps towards an equitable District.

Nicola Goren, *CEO, Meyer Foundation*, testified in support of the legislation, advocating for the Council to do more than what the legislation puts in place.

George Jones, *CEO, Bread for the City*, testified in support of the legislation. Stating that the bill needed improvements, such as requiring all District government employees to participate in racial equity training.

Kathryn Zuckuhr, *Deputy Director of Policy, D.C. Policy Center*, testified in support of the legislation, adding that we should go further, giving examples of action taken by jurisdictions such as San Francisco.

Abel Nuñez, *Executive Director, Central American Resource Center (CARECEN)*, testified in support of the legislation, and advocated for improvements to the legislation.

Michael Sindram, *Justice for All DC/Disabled Veteran*, testified in support of the legislation, explaining that the Office of Human Rights should not oversee the training implemented by the bill.

Dr. Sabiyha Prince, *Coordinator, Membership and Political Education, Empower DC*, testified in support of the legislation, and advocated for the adoption for 10 improvements to the legislation put forward.

Steve Glaude, *Coalition for Nonprofit Housing & Economic Development (CNHED)*, testified in support of the legislation, and recommended for improvements such as requiring all District government employees to participate in racial equity training.

Nassim Moshiree, *Policy Director, ACLU of the District of Columbia (ACLU-DC)*, testified in support of the legislation, providing examples of improvements that can be made to the bill.

Toni McIntosh Harper, *Vice President for Programs, Federal City Alumnae Chapter, Delta Sigma Theta Sorority*, testified in support of the legislation, mentioning improvements that should be made to the bill.

Zachary Parker, *Ward 5 Representative, DC State Board of Education*, testified in support of the legislation, giving examples of inequity in District schools to show the need for the legislation and improvements to the legislation.

Erin Palmer, *ANC 4B02 Commissioner*, testified in support of the legislation, advocating for ANC commissioners to be included in requirement for racial equity training. Also provided a copy of Resolution 4B-19-0403, passed by ANC 4B.

Sarah Novick, *Jews United for Justice*, testified in support of the legislation, with improvements.

Margaret Dwyer, *Showing Up for Racial Justice (SURJ-DC)* testified in support of the legislation, with improvements for increased accountability and independent oversight.

Maddie Smith, *Public Witness*, testified in support of the legislation, as well as improvements to the bill.

Jonathan M. Smith, *Executive Director, Washington Lawyers' Committee For Civil Rights And Urban Affairs*, testified in support of the legislation, while also providing recommended changes to the bill.

Betty Gentle, *Senior Advocacy and Community Engagement Specialist, SOME, Inc.*, testified in support of the legislation, with changes to expand the effect of the legislation.

Rachel Bergsieker, *Human Rights Learning Associate, American Friends Service Committee*, testified in support of the legislation, advocating for changes to expand scope of the legislation.

Dan Ohiri, *Local Advocacy Chair, Roosevelt at George Washington University*, testified in support of the legislation, and advocated for adoption of changes to expand the legislation.

Judith Sandalow, *Executive Director, Children’s Law Center*, testified in support of the legislation, while recommending the adoption of amendments to strengthen the legislation.

Travis Ballie, *Public Witness*, testified in support of the legislation, with amendments to improve the legislation.

Kesh Ladduwahetty, *Operations Director, DC for Democracy*, testified in support of the legislation, with amendments to improve the legislation.

Alexandra Dodds, *Public Witness*, testified in support of the legislation, with amendments to improve the legislation.

Melanie A. Acuña, Esq., *Legal Aid Attorney, AARP Legal Counsel for the Elderly*, testified in support of the legislation, while also stressing the passage of amendments to the legislation such as requiring DC Council employees to participate in the racial equity training.

Cynder Haines, *ONE DC*, testified in support of the legislation, while also stressing the passage of amendments to the legislation such as requiring evaluations of employees before and after participation in the racial equity training.

Jourgette Reid-Sillah, *ONE DC*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Gwendolyn Johnson, *ONE DC*, testified in support of the legislation.

Yasmeen Boiragee, *ONE DC*, testified in support of the legislation, noting that more needs to be done.

Sarah Rooney, *ONE DC*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Patrick Gregoire, *ONE DC*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Ed Lazere, *Executive Director, DC Fiscal Policy Institute*, testified in support of the legislation, advocated for several changes to strengthen the bill, and noted inequities in the FY2020 budget.

Ruth Pagani, *DC Latino Caucus*, testified in support of the legislation.

Detrice Belt, *Barry Farm Tenants and Allies Association*, testified in support of the legislation, giving examples of inequity through public housing redevelopments such as Barry Farm.

Suyanna L. Barker, DrPH, *La Clínica del Pueblo*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Quantina Pringle, *Public Witness*, testified in support of the legislation, stressing the presence of racial inequity in the District that they have witnessed firsthand.

Rebecca Barson, *MPH, Public Witness*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government. She detailed how the legislation can improve public health in the District.

Kiyem Ali, *Public Witness*, testified in support of the legislation.

Kymone Freeman, *We Act Radio*, testified in support of the legislation, advocating for the expansion of the bill in order to allow the District government to look at everything through a racial equity lens.

Ronald Thompson, Jr., *Public Witness*, testified in support of the legislation, advocating for changes to the legislation to expand its impact. He also provided firsthand experience of inequities in the District.

Reginald Black, *Interagency Council on Homelessness*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government. He added examples of inequity that he has witnessed as a homeless man.

Anthony Lorenzo Green, *Commissioner, Single Member District 7C04, Advisory Neighborhood Commission (ANC) 7C*, testified in support of the legislation, detailed specific examples of racial inequity in the District, and advocated for changes to the legislation to expand the impact of the bill.

Soyun Park, *Micro Business Network*, testified in support of the legislation, advocating for the strengthening of the bill.

Douglas Steward, *Public Witness*, testified in support of the legislation, giving examples from his own experiences of discrimination.

Joanna Blotner, *Public Witness*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Marlysa Gamblin, *Bread for the World Institute*, testified in support of the legislation, imploring the District to explicitly define racial equity.

Jesse Vogel, *New Synagogue Project*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Geraldine Hobby, *Injured Workers Committee Civil Service Status Fed/DC*, testified in support of the legislation.

William Jordan, *Public Witness*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Justin Johnson, *Public Witness*, testified in support of the legislation, talking about the importance of preserving the District’s culture.

Sheila Reid, *Avanti Real Estate Services, LLC*, testified in support of the legislation, while mentioning that more needs to be done.

Susana Durán, *Public Witness*, testified in support of the legislation, as well as recommendations made by the Initiative on Racial Equity and Local Government.

Sarah Jane Schofield, *public witness*, testified in support of the legislation, detailing examples of racial inequity throughout DC’s history.

VI. IMPACT ON EXISTING LAW

Bill 23-038 amends the Office of Human Rights Establishment Act of 1999 (D.C. Law 13-308; D.C. Official Code § 2-1411.01 *et seq.*) by adding a new section 206b. Bill 23-038 also amends Chapter 3 of Title 47 of the District of Columbia Official Code by adding a new subsection (h) to section 47-308.01, adding a new subsection (g) to section 47-308.02, and striking “agency’s performance on its activities for” in section 47-308.03(c)(1) and replacing it with “agency’s performance on its activities, including those relating to achieving racial equity, for.” Bill 23-038 also amends section 2(f) of the Confirmation Act of 1978 (D.C. Law 2-142; D.C. Official Code 1-523.01(f)) by replacing language in paragraphs (68) and (69) and adding a new paragraph (70).

VII. FISCAL IMPACT

The Committee accepts the fiscal impact statement from the District’s Chief Financial Officer. See Attachment F.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1 contains the long and short titles of the legislation.

Section 101 contains definitions.

Section 102 establishes the Office of Racial Equity, headed by a Chief Equity Officer (CEO), and establishes responsibilities of the CEO and Office.

Section 103 establishes a Council Equity Assessment Program within the Council, headed by a Coordinator, and established duties and guidelines for the Program and Coordinator.

Section 104 establishes the Commission on Racial Equity, Social Justice, and Economic Inclusion and duties and guidelines of the Commission.

Section 201 amends the Office of Human Rights Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-308; D.C. Official Code § 2-1411.01 *et seq.*) by adding a new section 206b establishing racial equity training coordinated by the Office on Human Rights, Department of Human Resources, and the Office of Racial Equity.

Section 202 amends Title 47 of the D.C. Official Code by adding a new subsection (h) to section 47-308.01, adding a new subsection (g) to section 47-308.02, and changing language in section 47-308.03(c)(1) to include language around racial equity.

Section 301 amends section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code 1-523.01(f)) by making minor changes to paragraphs (68) and (69) and adding a new paragraph (70).

Section 302 contains the fiscal impact statement.

Section 303 contains the effective date.

IX. COMMITTEE ACTION

On July 15, 2020, the Committee met to consider the comments for Bill 23-038, the “Racial Equity Achieves Real Change Amendment Act of 2020”. The meeting was called to order at 11:02 a.m. and Bill 23-038 was the sole item on the agenda. After ascertaining a quorum (consisting of Chairperson Todd, Councilmembers Grosso, Nadeau, T. White, and Silverman) Chairperson Todd provided a statement on the importance of the bill. Chairperson Todd then opened the floor for discussion. Councilmember Kenyan McDuffie, introducer of the bill, joined the Committee for discussion. Each Councilmember stressed the importance of the bill and Councilmember Silverman asked a clarifying question. After discussion, the Committee voted 5-0 to approve the Committee Report and Print with members voting as follows:

YES: Chairperson Todd and Councilmembers Grosso, Nadeau, T. White, Silverman

NO: None

PRESENT: None

ABSENT: None

The meeting adjourned at 11:34 a.m.

X. ATTACHMENTS

- A. Measure as Introduced
- B. Notice of Intent to Act as Published in the *District of Columbia Register*

- C. Notice of Public Hearing as Published in the *District of Columbia Register*
- D. Agenda and Witness List
- E. Attestation of Legal Sufficiency
- F. Comparative Committee Print
- G. Committee Print

D.C. OFFICIAL CODE § 2-1411.01 *ET SEQ.* THE OFFICE OF HUMAN RIGHTS ESTABLISHMENT ACT OF 1999.

Sec. 206b. Racial equity training.

(a) The Office, in coordination with the Department of Human Resources (“DCHR”) and the Office of Racial Equity, shall provide, on an on-going basis, racial equity training for all District government employees and members of the District’s boards and commissions. The training shall include:

(1) Racial equity workshops for District employees at the management level.

(2) A training series for District employees that equips personnel to better identify and address issues of racial equity.

(3) Online and in-person racial equity and inclusion courses that focus on the meaning of diversity, the benefits of a diverse workforce, and barriers that prevent a racially inclusive workforce environment.

(b) For the purposes of this section, the term “racial equity” means the elimination of racial disparities such that race no longer predicts opportunities and outcomes for residents of the District, particularly for persons of color.

* * *

D.C. OFFICIAL CODE § 47-308.01. PERFORMANCE-BASED BUDGET.

(3A) “Racial Equity” means the elimination of racial disparities such that race no longer predicts opportunities and outcomes for residents of the District, particularly for persons of color.

(3A 3B) “Relevant cost drivers” are the basic causes behind service delivery that can be utilized to reasonably predict the cost of a service based on its level of activity, which for 2008 shall be reported at the program level and for 2009 and beyond shall be reported at the activity level.

(3B 3C) “Relevant performance measures” means metrics established by the Mayor, after consultation with Stakeholders before the beginning of each fiscal year, that establish expectations about:

(A) The results an agency will produce;

(B) The outputs or services the agency will produce;

(C) The demands for activities from the agency; and

(D) The efficiency with which the agency produces results, outputs, and services and meets the demands for activity by the agency.

~~(3C)~~ **3D** “Stakeholders” are the customers of an agency that use the agency’s services or products and may include both government customers and persons or corporations that are resident in the District.

(h)(1) By March 1, 2021, in coordination with the Office of the City Administrator, the Office of Racial Equity, established by section 3 of Racial Equity Achieves Results Amendment Act of 2020, as approved by the Committee of the Whole on October 6, 2020 (Committee print of Bill 23-38), shall design and implement racial equity tools to enable District agencies to incorporate racial equity into their operations, performance-based budgets, programs, policies, rules, and regulations, and to ensure alignment between departmental and District-wide programs and initiatives.

(2) At a minimum, the Mayor shall use the racial equity tools to:

(A) Identify clear strategic initiatives, objectives, and measurable outcomes;

(B) Develop metrics to measure progress in redressing disparate social and economic outcomes in the District based on race, sex, and ethnicity;

(C) Track and measure how programmatic and policy decisions benefit or burden individuals based on race, sex, or ethnicity;

(D) Examine potential unintended consequences of a policy or programmatic decision and develop a strategy to advance racial equity and mitigate unintended negative consequences; and

(E) Evaluate the efficacy of District agencies’ strategic initiatives and programs aimed at reducing disparate outcomes.

(3) Beginning in 2021 for Fiscal Year 2022, and every year thereafter, the Mayor’s budget submission package to the Council shall include a summary of how the proposed budget advances racial equity in the District, reduces disparate outcomes, and allocates resources to support equitable outcomes

* * *

D.C. OFFICIAL CODE § § 47–308.02. RELEVANT PERFORMANCE MEASURES.

(g) Beginning no later than Fiscal Year 2022, and for each subsequent fiscal year, the Mayor shall establish at least one performance measure related to an agency’s progress toward achieving racial equity.

* * *

D.C. OFFICIAL CODE § 47-308.03. PERFORMANCE ACCOUNTABILITY REPORTING.

(c)(1) No later than January 15th of each year, the Mayor shall submit to the Council a performance accountability report that includes the evaluation of each ~~agency's performance on its activities for~~ agency's performance on its activities, including those relating to achieving racial equity, for the preceding fiscal year and includes all relevant performance measures, as determined in accordance with subsections (a) or (b) of this section, whichever is applicable.

1 **DRAFT COMMITTEE PRINT**
2 **Committee of the Whole**
3 **October 20, 2020**
4
5
6
7

8
9 A BILL

10
11 23-38
12

13 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
14
15
16

17 To establish an Office of Racial Equity to coordinate the District’s efforts to achieving racial
18 equity; to amend Chapter 3 of Title 47 of the District of Columbia Official Code to
19 require the Office to collaborate with the Mayor to design and implement a racial equity
20 tool to aid in eliminating racial disparities among District employees and to require the
21 Mayor, beginning in Fiscal Year 2021, to include racial equity-related performance
22 measures in the development of an agency’s annual performance plans and an evaluation
23 of the use of the racial equity tool in the annual performance accountability reports, and
24 require the office to establish an advisory entity to advise the office and to serve as a
25 liaison to the public; to amend the Office of Human Rights Establishment Act of 1999 to
26 require the Office of Human Rights and the Department of Human Resources to develop
27 and provide racial equity training for District employees and boards and commissions; to
28 state the sense of the Council that it should establish an Office of Racial Equity; and to
29 establish a Commission on Racial Equity to advise the Council.
30

31 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
32 act may be cited as the “Racial Equity Achieves Change (REACH) Amendment Act of 2020”.

33 Sec. 2. For the purposes of this Act, the term “Racial Equity” means the elimination of
34 racial disparities such that race no longer predicts opportunities, outcomes or the distribution of
35 resources for residents of the District, particularly for persons of color.

36 Sec. 3. Establishment of the Office of Racial Equity.

37 (a) There is established an Office of Racial Equity within the Office of the City
38 Administrator. The purpose of the Office shall be to coordinate the District’s efforts toward

39 achieving racial equity.

40 (b)(1) The Office shall be headed by a Chief Equity Officer, who shall be appointed by
41 the Mayor with the advice and consent of the Council pursuant to section 2(a) of the
42 Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-
43 523.01(a)).

44 (2) The Chief Equity Officer shall be a fulltime position, for which annual
45 compensation shall be fixed in accordance with Title X-A of the District of Columbia
46 Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law
47 12-124; D.C. Official Code § 1- 610.51 *et seq.*).

48 (c) The Office shall:

49 (1) Develop, provide oversight of, and advance the District's goals of achieving
50 racial equity;

51 (2) Coordinate with the Office of Human Rights to produce racial equity training
52 materials to be distributed to all agencies of the District government;

53 (3) Coordinate with Executive agencies in development of annual metrics and the
54 development of a Racial Equity Action Plan or plans pursuant to subsection (d) of this section;

55 (4) Work with District agencies to promote inter-agency collaboration, problem-
56 solving, and cooperation relating to achieving racial equity;

57 (5) Advise the Council, the Mayor, and District agencies about racial equity in the
58 District, and recommend policies, programs, or regulations necessary to achieve racial equity;

59 (6) Develop and distribute information about racial equity, social justice, and
60 economic inclusion;

61 (7) Promote educational activities that increase the understanding of racial equity;

62 (8) Analyze the feasibility of expanding the Racial Equity Action Plan to include:
63 (A) The District’s contracting and procurement process;
64 (B) The District’s hiring and promotion process; and
65 (C) The development of effective systems to capture, coordinate, and
66 share racial equity data across agencies.

67 (d)(1) By October 1, 2022, and annually thereafter, the Chief Equity Officer shall submit
68 a multi-year Racial Equity Action Plan (“the Plan”) to the Mayor and the Council.

69 (2) The Plan shall be a formalized accountability plan, including specific
70 timelines, to be used by each District agency to advance racial equity in the performance of its
71 duties.

72 (3)(A) The Office shall hold a series of public engagement forums during
73 formulation and updating of the Plan to obtain public and expert input on the contents of the
74 plan, including priorities for increasing racial equity in the District. The Office shall provide at
75 least 15 days written notice in the District of Columbia Register of any such forum.

76 (B) Each public engagement forum shall be held at an accessible evening
77 or weekend time and in an accessible location to maximize public participation.

78 (4) By October 1 and annually thereafter, the Office shall include in the Plan a
79 report to the Mayor and Council on the Office’s efforts to coordinate actions, goals, and District-
80 wide investments within the executive branch to further racial equity and provide a summary of
81 the programs and activities of the Office and an evaluation of the District’s efforts to achieve
82 racial equity.

83 (e) The Office shall accept public comment on any aspect of its functions and on any
84 policy or proposed policy of the District government relating to racial equity.

85 (f)(1) The Office shall establish a Racial Equity Advisory Board consisting of 7 to 10
86 community members to provide to the Office ongoing input on racial equity in the District and
87 serve as a liaison between the Office and the public. The Board shall meet not less than
88 quarterly.

89 (2) Members shall be District residents and appointed with due consideration
90 from established public, nonprofit, and volunteer community organizations, community leaders,
91 academic institutions, and other individuals who have shown dedication and knowledge of
92 advancing racial equity or social justice.

93 (3) Individual members may be compensated for reasonable expenses incurred in
94 the performance of their official duties.

95 Sec. 4. The Office of Human Rights Establishment Act of 1999, effective October 20,
96 1999 (D.C. Law 13-308; D.C. Official Code § 2-1411.01 *et seq.*), is amended as follows:

97 (a) A new section 206b is added to read as follows:

98 “Sec. 206b. Racial equity training.

99 “(a) The Office, in coordination with the Department of Human Resources (“DCHR”)
100 and the Office of Racial Equity, shall provide, on an on-going basis, racial equity training for all
101 District government employees and members of the District’s boards and commissions. The
102 training shall include:

103 “(1) Racial equity workshops for District employees at the management level.

104 “(2) A training series for District employees that equips personnel to better
105 identify and address issues of racial equity.

106 “(3) Online and in-person racial equity and inclusion courses that focus on the
107 meaning of diversity, the benefits of a diverse workforce, and barriers that prevent a racially
108 inclusive workforce environment.

109 “(b) For the purposes of this section, the term “racial equity” means the elimination of
110 racial disparities such that race no longer predicts opportunities and outcomes for residents of the
111 District, particularly for persons of color.

112 Sec. 5. Racial equity tool.

113 Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

114 (a) Section 47-308.01 is amended by to read as follows:

115 (1) Paragraph 3A is redesignated as 3B.

116 (2) Paragraph 3B is redesignated as 3C.

117 (3) Paragraph 3C is redesignated as 3D.

118 (4) A new paragraph (3A) is added to read as follows:

119 “(1A) “Racial Equity” means the elimination of racial disparities such that race no longer
120 predicts opportunities, outcomes or the distribution of resources for residents of the District,
121 particularly for persons of color.

122 (b) Section 47-308.01 is amended by adding a new subsection (h) to read as follows:

123 “(h)(1) By March 1, 2021, in coordination with the Office of the City Administrator, the
124 Office of Racial Equity, established by section 3 of Racial Equity Achieves Results Amendment
125 Act of 2020, as approved by the Committee of the Whole on October 6, 2020 (Committee print
126 of Bill 23-38), shall design and implement racial equity tools to enable District agencies to
127 incorporate racial equity into their operations, performance-based budgets, programs, policies,

128 rules, and regulations, and to ensure alignment between departmental and District-wide programs
129 and initiatives.

130 “(2) At a minimum, the Mayor shall use the racial equity tools to:

131 “(A) Identify clear strategic initiatives, objectives, and measurable
132 outcomes;

133 “(B) Develop metrics to measure progress in redressing disparate social
134 and economic outcomes in the District based on race, sex, and ethnicity;

135 “(C) Track and measure how programmatic and policy decisions benefit or
136 burden individuals based on race, sex, or ethnicity;

137 “(D) Examine potential unintended consequences of a policy or
138 programmatic decision and develop a strategy to advance racial equity and mitigate unintended
139 negative consequences; and

140 “(E) Evaluate the efficacy of District agencies’ strategic initiatives and
141 programs aimed at reducing disparate outcomes.

142 “(3) Beginning in 2021 for Fiscal Year 2022, and every year thereafter, the
143 Mayor’s budget submission package to the Council shall include a summary of how the proposed
144 budget advances racial equity in the District, reduces disparate outcomes, and allocates resources
145 to support equitable outcomes.”.

146 (c) Section 47-308.02 is amended by adding a new subsection (g) to read as follows:

147 “(g) Beginning no later than Fiscal Year 2022, and for each subsequent fiscal year, the
148 Mayor shall establish at least one performance measure related to an agency’s progress toward
149 achieving racial equity.”.

150 (d) Section 47-308.03(c)(1) is amended by striking the phrase “agency’s performance on
151 its activities for” and inserting the phrase “agency’s performance on its activities, including those
152 relating to achieving racial equity, for” in its place.

153 Sec. 6. Legislative actions.

154 (a)(1) There is established a Council Racial Equity Commission to advise the Council of
155 the District of Columbia on matters of racial equity.

156 (2) The Commission shall consist of 5 members all appointed by the Chairman of
157 the Council and who may be residents of the District of Columbia.

158 (3) Members of the Commission shall have the following qualifications:

159 (A) Knowledge of core racial equity concepts including power and
160 privilege, implicit bias, and structural or institutional racism;

161 (B) Extensive experience working with communities of color; and

162 (C) Demonstrated experience bringing a racial equity lens to their work,
163 with a focus on identifying and overcoming or mitigating barriers to racial equity.

164 (4) The Commission shall examine issues of racial equity in governance in the
165 District in its deliberations, identify best practices in other jurisdictions, and may undertake such
166 other endeavors related to racial equity as it determines necessary to advise the Council. The
167 Commission may also work with the Council’s Racial Equity Office.

168 (5) The Council shall provide administrative support to the Committee and may
169 provide other resources as necessary as determined by the Council.

170 (6) The Commission shall not engage in any lobbying of the Council.

171 (b) It is the sense of the Council that for Council Period 24, the Council should include in
172 its rules the establishment of a Racial Equity Program to produce racial equity training materials,

173 provide ongoing racial equity training for Council staff, and include a protocol for conducting
174 Racial Equity Impact Assessments on legislation.

175 Sec.7. Fiscal impact statement.

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

179 Sec. 8. Effective date.

180 This act shall take effect following approval by the Mayor (or in the event of veto by the
181 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
182 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
183 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
184 Columbia Register.