

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



**BRIAN L. SCHWALB**  
**ATTORNEY GENERAL**

February 6, 2023

Transmitted via email

The Honorable Kevin McCarthy  
Speaker  
United States House of Representatives  
Washington, DC 20510

Re: H.J. Res. 24 and 26—Disapproval Resolutions of the District of Columbia’s Revised Criminal Code Act of 2022 and Local Resident Voting Rights Amendment Act of 2022

Dear Speaker McCarthy:

As the District of Columbia’s chief legal officer, I have the duty to enforce and defend the District of Columbia’s laws. I understand the House of Representatives this week is considering H.J. Res. 24 and H.J. Res. 26, both of which, if passed, would override duly and properly enacted District laws. Specifically, the House of Representatives is considering disapproval of the Revised Criminal Code Act of 2022, which modernizes and clarifies the District’s antiquated criminal code (last comprehensively addressed in 1901), and the Local Resident Voting Rights Amendment Act of 2022, which allows local non-citizen residents to have a voice in local (not federal) elections affecting local (not federal) matters. For the following reasons, I urge Congress to vote against these resolutions.

First, sound legislative decisions are made carefully, after thorough research, deliberation, and debate, based on evidence, logic, and data. The Revised Criminal Code Act is the result of a more than 10-year review designed to achieve consistency throughout a body of law that evolved over time in piecemeal fashion and that has not been comprehensively reworked in more than a century. This thoughtful, public process was informed by legal experts from across the country including scholars, law enforcement, prosecutors, and judges from the American Law Institute, as well as local criminal justice stakeholders. The District of Columbia Council considered these reforms in several public hearings and legislative sessions and twice reaffirmed its near-unanimous commitment to these updates. As D.C.’s elected Attorney General, I am confident that the studied examination and reforms of our criminal code, designed to be phased in over several years, will lead to improved administration of criminal justice and, therefore, to a safer D.C. To erase the exhaustive work that informed the Revised Criminal Code Act without any study, evidence, or analysis, and without even hearing from the people who will be most directly impacted, would be, in a word, careless.

Moreover, the proposed disapproval resolutions reflect a paternalism reminiscent of the pre-Civil Rights era. Indeed, the limits on the District's self-governance that Congress retained when it drafted the Home Rule Act in the 1970s, and the congressional review procedures that the disapproval resolutions seek to exploit, have their roots in a fundamental mistrust in the ability of a majority African American city—and now a majority Black and brown city—to govern itself. The District is a thriving democracy home to nearly 700,000 residents. We pay more federal taxes per capita than any other jurisdiction in the country and more total federal taxes than 23 states. We have fought and died in our country's wars. And, we are a community of parents, teachers, business owners, police officers, nurses, and many others who choose to live in the Nation's Capital. Members of Congress who are elected by residents of other states, who do not themselves live in D.C., and who have not participated in our local civic discourse, should not substitute their judgment for the democratically expressed views of District residents who lack voting representation in Congress yet will be most directly impacted by the legislation.

Finally, it is worth observing that many now in Congress have long espoused the virtues of limited federal government and respect for states' rights. They have argued that myriad matters, including criminal justice, reproductive freedom, and voting rights, are best left to states and localities. The proposed disapproval resolutions, in contravention of these stated principles, would substitute the will of federal politicians for the considered decisions of the District's locally elected leaders. Critically, most states already have modernized and simplified their criminal justice laws just as the District seeks to do for itself: 29 states have criminal codes patterned after the Model Penal Code, as the District's legislation is, and 39 states recognize the right to a jury trial when liberty interests are at stake, as the District now seeks to do. What's more, at least 14 other municipalities permit noncitizens to vote in local elections just as the District's new local voting law would do. Why should these laws be allowed in other states, but not in the District of Columbia?

I recognize that some members of Congress may disagree with the laws that the District's elected leaders have written and enacted; that is to be expected in a country as diverse as ours. But these two District laws should not be singled out for reversal. Given Congress' stated intent when passing the Home Rule Act to empower the District "to the greatest extent possible" with the responsibility of "legislating upon essentially local District matters," I urge you and your colleagues to exercise your discretion not to advance these disapproval resolutions.

Sincerely,



Brian L. Schwalb  
Attorney General

cc: The Honorable Hakeem Jeffries, Minority Leader