A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Office of Citizen Complaint Review Establishment Act of 1998 to require the Office of Police Complaints to make recommendations to the District of Columbia Housing Authority and the Department of Consumer and Regulatory Affairs regarding the incidence of police misconduct, to require that the Office of Police Complaints review data related to complaints, subject officer and complainant demographics, recommended and imposed discipline, uses of force, and in-custody deaths for the District of Columbia Housing Authority, the Department of Consumer and Regulatory Affairs, and special police officers, to prevent the disclosure of information received by the Office of Police
Complaints from the District of Columbia Housing Authority and the Department of Consumer and Regulatory Affairs, to require that the Office of Police Complaints deliver an annual report that analyzes information related to the District of Columbia Housing Authority and the Department of Consumer and Regulatory Affairs beginning December 31, 2021, to disallow current or former employees of the District of Columbia Housing Authority and the Department of Consumer and Regulatory Affairs from serving as complaint investigators or carrying out mediation and complaint determination functions, to authorize the Office of Police Complaints to receive, investigate, and mediate complaints against special police officers and recommend discipline to the designated agency principal, to require that the District of Columbia Housing Authority and the Department of Consumer and Regulatory Affairs transfer citizen complaints to the Office of Police Complaints within 3 business days, to allow the Executive Director of the Office of Police Complaints to initiate his or her own complaint based on observed abuse or misuse of police powers, to require that the Executive Director of the Office of Police Complaints give notice to the designated agency principal that a matter has been referred to the U.S. Attorney’s Office, to require that employees of the District of Columbia Housing Authority and the Department of Consumer and Regulatory Affairs cooperate with the Office of Police Complaints and to prohibit retaliation against complainants, to establish a process by which the designated agency principal reviews a merits determination from the Office of Police Complaints and disciplines the subject officer, and to clarify a designated agency principal’s authority to implement discipline before and after receipt of a complaint.

BE IT ENACED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Special Police Officer Oversight Amendment Act of 2019”.

Sec. 2. The Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 et seq.), is amended as follows:
(a) Section 2 (D.C. Official Code § 5-1101) is amended by adding a new paragraph (3A) to read as follows:

“(3A) Special police officers and members of the District of Columbia Housing Authority Police Department (“DCHAPD”) are also authorized to make arrests, carry a firearm, and perform other functions normally reserved for members of the Metropolitan Police Department. Since the powers of special police officers and members of the DCHAPD closely resemble the powers of MPD officers, an effective system for police oversight must include a process for resolving allegations of misconduct concerning those officers.”.
(b) Section 4 (D.C. Official Code § 5-1103) is amended as follows:

(1) New paragraphs (2A), (2B), (2C), and (2D) are added to read as follows:

"(2A) "DCHA" means the District of Columbia Housing Authority.

"(2B) "DCHAPD" means the District of Columbia Housing Authority Police Department.

"(2C) "DCRA" means the Department of Consumer and Regulatory Affairs.

"(2D) "Designated agency principal" means:

(A) The Police Chief, for cases in which the subject police officer or employee is a member of the MPD or a special police officer; or

(B) The DCHA Director, for cases in which the subject police officer or employee is a member of the DCHAPD."

(2) A new paragraph (3B) is added to read as follows:

"(3B) "MPD" means the Metropolitan Police Department."

(3) A new paragraph (6) is added to read as follows:

"(6) "Special police officer" shall have the same meaning as provided in D.C. Official Code § 47-2839.01(a)(5)."

(c) Section 5 (D.C. Official Code § 5-1104) is amended as follows:

(1) Subsection (d) is amended by striking the phrase “MPD affecting” and inserting the phrase “MPD, the DCHA, or the DCRA affecting” in its place.

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

(A) Paragraph (1) is amended by striking the phrase “the MPD” and inserting the phrase “the MPD, the DCHAPD, and special police officers” in its place.
(B) Paragraph (3) is amended by striking the phrase “the MPD to” and inserting the phrase “the MPD, the DCHA, or the DCRA to” in its place.

(C) Paragraph (4) is amended by striking the phrase “the MPD to” both times it appears and inserting the phrase “the MPD, the DCHA, or the DCRA to” in its place.

(D) Paragraph (5) is amended by striking the phrase “the MPD” and inserting the phrase “the MPD, the DCHA, or the DCRA, respectively” in its place.

(E) Paragraph (6) is amended to read as follows:

“(6) On December 31 of each year, the Board shall deliver a report to the Mayor and the Council that analyzes the information evaluated by the Board under paragraph (1) of this subsection; provided, that the report shall not include an analysis of the information evaluated by the Board related to the DCHA or the DCRA until December 31, 2021.”.

(d) Section 7 (D.C. Official Code § 5-1106) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “complaint investigators may not be persons currently or formerly employed by the MPD” and inserting the phrase “complaint investigators shall not be persons currently or formerly employed by the MPD, the DCHA, the DCRA, or as a special police officer” in its place.

(2) Subsection (c) is amended by striking the phrase “No member of the pool shall be a current or former employee of the MPD” and inserting the phrase “Members of the pool shall not be persons currently or formerly employed by the MPD, the DCHA, the DCRA, or as a special police officer” in its place.

(e) Section 8 (D.C. Official Code § 5-1107) is amended as follows:

(1) Strike the phrase “HAPD” where it appears and insert the phrase “DCHAPD” in its place.
(2) Subsection (a) is amended by striking the phrase “against a member or members of the MPD, and” and inserting the phrase “against members of the MPD, special police officers, and” in its place.

(3) Subsection (a-1) is amended by striking the phrase “the MPD” both times it appears and inserting the phrase “the MPD, the DCHA, or the DCRA” in its place.

(4) Subsection (g)(6) is amended by striking the period and inserting the phrase “; provided, that the MPD shall provide the policy training for referrals where the subject police officer is a special police officer.” in its place.

(5) A new subsection (g-1) is added to read as follows:

“(g-1) If the Executive Director discovers evidence of abuse or misuse of police powers that was not alleged by the complainant in his or her citizen complaint, the Executive Director may:

“(A) Initiate his or her own complaint against the subject police officer; and

“(B) Take any of the actions described in subsection (g)(2) through (6) of this section.”.

(6) Subsection (h) is amended by striking the phrase “subsection (g)” and inserting the phrase “subsections (g) or (g-1)” in its place.

(7) Subsection (h-2) is amended as follows:

(A) Paragraph (3) is amended by striking the phrase “the MPD or the HAPD to” and inserting the phrase “the MPD, the DCHA, or the DCRA to” in its place.

(B) Paragraph (4) is amended by striking the phrase “the MPD or the HAPD” and inserting the phrase “the MPD, the DCHA, or the DCRA” in its place.

(8) Subsection (i) is repealed.
(f) Section 10(b) (D.C. Official Code § 5-1109(b)) is amended to read as follows:

“(b) The Executive Director shall give written notification of such referral to the complainant, the subject officer or officers, and the designated agency principal.”

(g) Section 11 (D.C. Official Code § 5-1110) is amended as follows:

(1) Strike the phrase “Police Chief” wherever it appears and insert the phrase “designated agency principal” in its place.

(2) Subsection (f) is amended by striking the phrase “Office or the MPD” and inserting the phrase “Office, the MPD, the DCHA, or the DCRA” in its place.

(h) Section 12 (D.C. Official Code § 5-1111) is amended as follows:

(1) Strike the phrase “Police Chief” where it appears and insert the phrase “designated agency principal” in its place.

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

(A) Strike the phrase “MPD may be effected by service on the Police Chief or on his designee” and insert the phrase “MPD, the DCHA, or the DCRA may be effected by service on the designated agency principal or on his or her designee” in its place.

(B) Strike the phrase “or his designee” and insert the phrase “or his or her designee” in its place.

(3) Subsection (d) is amended to read as follows:

“(d) Employees of the MPD, the DCHA, and the DCRA shall cooperate fully with the Office in the investigation and adjudication of a complaint. Upon notification by the Executive Director that an employee has not cooperated as requested, the designated agency principal shall cause appropriate disciplinary action to be instituted against the employee and shall notify the Executive Director of the outcome of such action. An employee of the MPD, the DCHA, or the
DCRA shall not retaliate, directly or indirectly, against a person who files a complaint under this act. If a complaint of retaliation is sustained under this act, the subject police officer or employee shall be subject to appropriate penalty, including dismissal. Such disciplinary action shall not be taken with respect to an officer or employee’s invocation of the Fifth Amendment privilege against self-incrimination.”.

(4) Subsection (h) is amended by striking the phrase “MPD regulation” and inserting the phrase “the MPD, the DCHA, or the DCRA regulation” in its place.

(i) Section 13 (D.C. Official Code § 5-1112) is amended as follows:

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

“Sec. 13. Action by the designated agency principal.”.

(2) Strike the phrase “Police Chief” wherever it appears and insert the phrase “designated agency principal” in its place.

(j) Section 15 (D.C. Official Code § 5-1114) is amended as follows:

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

(A) Strike the phrase “The MPD shall” and insert the phrase “The designated agency principal shall” in its place.

(B) Strike the phrase “the MPD with” and insert the phrase “the MPD, the DCHA, and the DCRA with” in its place.

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

“(b) If the designated agency principal has initiated disciplinary proceedings against an officer for alleged misconduct, the subsequent timely filing with the Office of a complaint against the same officer or officers, alleging the same misconduct, shall not preclude the MPD, the DCHA, or the DCRA from proceeding with its own disciplinary process. Nor shall the fact that the
designated agency principal has initiated disciplinary proceedings against a police officer for
alleged misconduct preclude the Office from processing a complaint that was timely filed against
the same officer and alleging the same misconduct, except that the designated agency principal
may not punish the same officer more than once for the same act or omission that constitutes
misconduct.”.

(3) Subsection (c) is amended by striking the phrase “the MPD” and inserting the
phrase “the designated agency principal” in its place.

(4) Subsection (d) is amended by striking the phrase “the MPD from” and inserting
the phrase “the designated agency principal” in its place.

(5) Subsection (e) is amended by striking the phrase “Police Chief” and inserting
the phrase “designated agency principal” in its place.

(6) Subsection (f) is amended by striking the phrase “Police Chief” and inserting
the phrase “designated agency principal” in its place.

(k) Section 16 (D.C. Official Code § 5-1115) is repealed.

Sec. 3. Section 1100.6 of Title 6 of the District of Columbia Municipal Regulations is
amended to read as follows:

“1100.6 Special police officers appointed under the provisions of § 1100.1, § 1100.4 or §
1100.5 shall be subject to any applicable general orders, special orders, circulars, standard
operating procedures, bureau or division orders, and any other written guidance issued to members
of the Metropolitan Police Department, including written guidance related to performing searches
and seizures, making arrests, using force, and any associated reporting requirements.”.

Sec. 4. Fiscal impact statement.

Sec. 5. Effective date.

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