

March 7, 2023

**RE: VOTE “NO” ON H.J. RES. 26, BLOCKING ENACTMENT OF
D.C.’s REVISED CRIMINAL CODE ACT OF 2022 DULY
ENACTED BY THE D.C. COUNCIL**

Dear Senator:

The American Civil Liberties Union strongly urges you oppose Congressional efforts to undermine democracy in our Nation’s Capital by voting **“NO” on H.J. Res. 26, which would deny self-governance to Washington D.C.**



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The ACLU will score this vote

Over 700,000 people living in our Nation’s capital are locked out of American democracy and denied the full rights of representative government. Despite D.C.’s fully functioning government, local decisions on policies that impact D.C. residents’ rights, liberties, health, and welfare are routinely threatened by Congress—a body that neither represents their interests, nor is politically accountable for its decisions regarding the District—because of D.C.’s lack of voting representation in Congress. H.J. Res. 26 undermines the democratic process by stopping D.C.’s Revised Criminal Code Act (RCCA), which was duly-passed by Washington D.C.’s city council, from having the force of law it would have if adopted by one of our fifty states. Misinformation about the RCCA has proliferated and District residents’ attempts to share the facts and the need for the RCCA have gone unheard in Congress, where D.C. residents lack full representation. The ACLU urges the Senate to support the rights of District of Columbia residents and their elected officials to debate and decide for themselves the same policy questions that each of the fifty states may debate and decide for themselves by voting against H.J. Res 26.

The RCCA is the product of a rigorous 16-year effort to modernize the D.C. Criminal Code. Since the 1960s, dozens of states have reformed their criminal code, removing obsolete provisions, ensuring sentences are proportionate, and simplifying overlapping charges. The District should be allowed to do the same. Development of the RCCA required years of research, an expert commission, 51 public meetings, extensive public feedback, and robust negotiation. The advisory group that unanimously approved of the recommended changes included representatives from the Office of the U.S. Attorney for the District of Columbia and the Office of the Attorney General for the District of Columbia. More important, the

Washington D.C. City Council—D.C.’s only democratically-elected representative body—voted unanimously to pass the RCCA. The RCCA is supported by 83% of District voters.¹ Opponents of the RCCA, however, are spreading misinformation about the RCCA’s impact in a blatant attempt to erode home rule and trample on the rights of District residents for political gain.

The RCCA’s provisions are sensible and in line with where the majority of states are in America. Along with clear and consistent language, the bill would increase the penalty for attempted sexual assault from 5 years to 15 years, increase possession of firearm silencer or bump stock from 1 year to 2 years and create a new penalty for reckless endangerment with a firearm with a maximum sentence of 2 years, along with other changes. Additionally, the RCCA would reduce the statutory maximum for certain offenses in order to improve proportionality and reflect current sentencing practices, which are typically well below the maximum. As such, the sentence maximum changes in the RCCA are not expected to lower sentences for serious crimes. For example, the RCCA’s 20-year maximum penalty for robbery is seven times higher than the median sentence imposed for robbery, and 11 years higher than the 97.5th percentile sentence imposed for robbery. For robberies and carjackings, over 97.5% of sentences currently imposed by judges are lower than the maximum allowable penalty outlined in the RCCA. Congress has not invalidated any state’s update of its criminal code, and must not do so here. The residents of the District must be able to have their elected District legislature enact these laws without being singled out by Congress.

D.C. residents pay taxes, serve on juries, fight in wars, and contribute to our country’s prosperity. As such, its democratically-elected representative body deserves the ability to determine its own criminal code, just like every other state in this union. Striking down the RCCA, or ignoring the D.C. Council’s recent effort to avoid being used as a partisan cudgel by attempting to withdraw the RCCA’s transmittal to Congress, undermines the fundamental principle of self-governance and is antithetical to a free society. Congress has an opportunity to ensure that hundreds of thousands of Americans in the District of Columbia have their voices heard. We urge Senators vote “no” on H.J. Res 26.

Thank you for your attention to this important issue. If you have any questions, please contact Pat Collier, deputy federal policy director, at pcollier@aclu.org.

Sincerely,



Christopher Anders
Federal Policy Director



Monica Hopkins
Executive Director

¹ [District Voters Overwhelmingly Support Revised Criminal Code Act](#) (2022), DC Justice Lab and FWD.us.