



## King County

### Metropolitan King County Council Law & Justice Committee

#### STAFF REPORT

<b>Agenda Item:</b>	5 and 6	<b>Name:</b>	Andrew Kim Mike Reed
<b>Proposed No.:</b>	2019-0476 2019-0477	<b>Date:</b>	December 10, 2019

#### SUBJECT

Proposed Ordinance 2019-0477 would establish a new human and civil right commission, add a new chapter to King County Code Title 2, repeal King County Code Chapter 3.10 to decommission the existing civil rights commission, and make other related code changes.

Proposed Motion 2019-0476 would amend the council's Organizational Motion to establish a human and civil rights commission administration unit as a legislative branch independent agency.

#### SUMMARY

At the September 24, 2019 Law and Justice Committee, staff from the Seattle University School of Law's Korematsu Center for Law and Equality provided a presentation on their report on the county's Civil Rights Commission. The report included research on leading practices on civil rights commissions in local jurisdictions across the United States and 11 recommendations to enhance the civil rights commission for the county.

Proposed Ordinance 2019-0477 would adopt the recommendations of the Korematsu Center report to do the following:

- Establish an independent King County human and civil rights commission;
- Authorize the commission to investigate and enforce county antidiscrimination ordinances and allow subpoena powers;
- Authorize the commission to appoint an executive director that would be an employee of the council but report directly to the commission;
- Expand the list of protected classes that are covered under the county's antidiscrimination ordinances; and
- Decommission the existing King County civil rights commission and the office of civil rights and transfer all of their activities to the newly established commission.

The related Proposed Motion 2019-0476 would amend the council's Organizational Motion to establish a human and civil rights commission administration unit as a legislative branch independent agency to allow the executive director and employees of the human and civil rights commission to be employees of the legislative branch.

At the November 12, 2019 Law and Justice Committee, the committee received an initial briefing<sup>1</sup> on both legislation which was subsequently introduced and referred to the committee at the November 13, 2019 Council meeting. The Committee received a second briefing on the proposed legislations at the December 2, 2019 Law and Justice Committee.

Staff has prepared Striking Amendment S1 to make technical edits to Proposed Ordinance 2019-0477 and Title Amendment T1 to correct the title to Proposed Ordinance 2019-0477 to reflect the legislation text as introduced.

## **BACKGROUND**

***King County Civil Right Commission.*** In 1976, the King County Affirmative Action Committee was established, and was replaced in November 1995 by the King County Civil Rights Commission.<sup>2</sup> In July 2006, the size of the commission was reduced from 16 members to 12 members to align with a charter amendment that reduced the number of county council districts to nine.<sup>3</sup> The Civil Rights Commission was established to serve in an advisory capacity to the executive and the council on matters concerning affirmative action, disability access, equal employment opportunity, contract compliance, fair housing, minority and woman owned businesses, and access to public accommodations to ensure the consistent application of all county ordinances, rules, and regulations concerning these programs. The Civil Rights Commission is also tasked with reviewing and conducting informal investigations of complaints that relate to violations of county ordinances related to discrimination.

The Civil Rights Commission has historically been active in community engagement by establishing relationships with other regional human and civil rights commissions, meeting and networking with community organizations, and educating the communities and the public at large on the work of the commission. Annual work plans from 2014 through 2017 indicate the commission's commitment to such activities each year; however, it is uncertain whether such activities were conducted and continue to occur.

Over the last ten years, the commission was the primary advisory body on county policies relating to Equity and Social Justice, the Office of Law Enforcement and Oversight (OLEO), Martin Luther King Jr. county logos, and immigrant and refugee communities. However, as these policies have become a priority for the county, many of these activities have been delegated to the newly established OLEO Community Advisory Committee, the Immigrant and Refugee Commission, and the newly

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<sup>1</sup> Briefing 2019-B0172.

<sup>2</sup> Ordinance 12058.

<sup>3</sup> Ordinance 15548.

established Office of Equity and Social Justice. Based on feedback from prior support staff of the Office of Civil Rights, the key activities of the Commission and the Office of Civil Rights have been the planning and implementation of the county's Rev. Dr. Martin Luther King Jr. annual celebration<sup>4</sup>. Council legislative history shows that currently only 2 of the 12 commission positions have not expired. Executive staff state that 6 commission positions terms have already ended but are still considered active as per K.C.C. 2.28.003.C, which allows those members whose term has expired to continue to serve until a successor is appointed and either is confirmed. Executive staff also confirmed that the remaining 6 commission positions are vacant. The last Civil Rights Commission briefing received by the council was on June 2010 where the council was briefed on the commission's 2009 Annual Report.

**King County Office of Civil Rights.** The King County Office of Civil Rights is responsible for providing staff support to the Civil Rights Commission, along with other duties, including enforcing the county's antidiscrimination ordinances<sup>5</sup>; assisting departments in complying with legislation and rules regarding access to county programs, facilities, and services for people with disabilities; serving as the county Americans with Disabilities Act coordinator relating to public access; and serving as the county federal Civil Rights Act Title VI coordinator.<sup>6</sup>

The Office of Civil Rights currently staffs 2.0 FTEs with an annual budget of \$238,000, compared to 5.5 FTEs with an annual budget of \$817,000 in 2012. Some of the reduction in staff was due to county budget reductions. In addition, the Office of Civil Rights has been reorganized from the county's Executive Office to the Department of Executive Services to its current home in the Office of Equity and Social Justice. Through the 2017-2018 Biennial Budget<sup>7</sup>, the Council moved the functions of the Office of Civil Rights to the Office of Equity and Social Justice which administratively changed the Office of Civil Rights to a Civil Rights Program. Proposed Ordinance 2018-0485 was transmitted by the executive to formally codify this administrative change; however, the council did not take action on this item. Current and past support staff of the Civil Rights Commission and current Civil Rights Commissioners have expressed that such staff reductions and staff reorganizations have provided inconsistent staff support to the Commission since 2012.

According to the Office of Civil Rights, the number of cases investigated declined from 325 in 2017 to 88 in 2018. The Office of Civil Rights has stated that data on the number of cases from 2013 through 2016 is unavailable. The Office of Civil Rights also stated that the number of reported and closed cases may have decreased over time due to annexations and incorporations that have occurred in the county over the years. Because the jurisdiction of the county's non-discrimination ordinances is limited to unincorporated King County, this would reduce the area over which the county has jurisdictional responsibility. The Office speculates that the housing and employment

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<sup>4</sup> K.C.C. Chapter 2.47.

<sup>5</sup> K.C.C. Chapters 12.17, 12.18, 12.20 and 12.22.

<sup>6</sup> K.C.C. Section 2.16.035 (H).

<sup>7</sup> Ordinance 18409.

locations that earlier might have been the subject of complaints are now within the jurisdiction of cities that may or may not have local civil rights protections and enforcement. Further, the Office points out that in 2008, 79% of residents in unincorporated King County owned their homes. However, according to the National Fair Housing Alliance 2016 Trends Report, 91.4% of all fair housing complaints filed in 2015 involved rental housing. Therefore, complaints alleging fair housing violations in unincorporated King County equated to an average of five cases filed per year from 2014 through 2017.

The Office of Civil Rights continues to be the primary contact for inquiries and/or complaints related to discrimination in the county. Based on data collected by the Office, approximately 70% of the 670 inquiries and/or complaints received from December 2016 through May 2018 were not under the purview of the county. The Office states that such inquiries and/or complaints are referred to the appropriate jurisdiction which include Washington State, municipalities within the county, and sometimes other counties in the state. The Office has attributed this to the public's unawareness of how civil rights are enforced between jurisdictions. The Office has stated that since it became a program under the Office of Equity and Social Justice, the Office has made an effort to clean-up its website and include an intake form to educate the public and limit non-county related inquiries and/or complaints. The Office has stated that the number of non-county inquiries and/or complaints have decreased since this effort. The Office also states that starting in June 2018, the Office stopped tracking non-county inquiries and/or complaints and received 47 inquiries and/or complaints that were under the purview of the county. It is unknown whether inquiries and/or complaints in municipalities within the county have increased since June 2018.

The Office of Civil Rights also conducted outreach and trainings on Fair Housing and Americans with Disabilities Act (ADA) compliance as part of a U.S. Department of Housing and Urban Development (HUD) contract. According to the Office of Civil Rights, as of 2018, the county no longer contracts with HUD and therefore the outreach activities and trainings for county residents have ended.

***Korematsu Report.*** In 2018, the executive drafted a proposed ordinance to establish an Equity, Civil Rights and Social Justice Commission to replace the existing Civil Rights Commission. At that time, the draft was shared with some members of the council, but it was not formally transmitted for consideration. The Office of Equity and Social Justice stated that the integration of the Office of Civil Rights and the Office of Equity and Social Justice provided new opportunities to infuse equity and social justice recommendations into post-civil rights investigations, and to support policies and practices that prevent discrimination, thus prompting an opportunity to establish the proposed Equity, Civil Rights and Social Justice Commission. On July 16, 2019, the executive formally transmitted Proposed Ordinance 2019-0330 to establish the Equity, Civil Rights and Social Justice Commission.

As a response to the executive's proposal, Councilmembers Larry Gossett and Rod Dembowski engaged with Seattle University's Korematsu Center for Law and Equality

to assist in conducting research on leading practices on civil rights commissions in local jurisdictions across the United States such as Cook County, Illinois, City of Chicago, New York City, City of Los Angeles, City of Minneapolis, City of Portland, City of San Francisco, and City of Seattle. The Korematsu Center also researched the City of Seattle's Ethics and Elections Commission to evaluate its independent governance model.

The Korematsu Report included the following 11 recommendations for the county:

1. Grant greater authority to the civil rights commission to implement the county's civil rights laws;
2. Include language in the enabling law of the commission that explicitly establishes the independence and objectivity of the work of the commission and its staff;
3. Establish the commission's permanence through a new provision in the county charter;
4. To ensure independence and representation, create a balanced process for appointment of commissioners that takes into account the representation and input of protected classes;
5. To ensure independence, create a new position of executive director of the commission who would be responsible for the day-to-day operations of the commission and for the appointment and supervision of staff;
6. Reestablish an independent staff, led by the executive director and separate from other offices in the executive branch, supported by sufficient funding and resources to accomplish the goals and workload contemplated by the ordinances;
7. Consider whether renaming the commission to incorporate both civil rights and human rights into the name will enhance community engagement and inclusion in the work of the commission by indicating the county's commitment to protecting the rights of all residents;
8. Engage in a robust stakeholder process to determine the need for new policies to address inequity proactively and propose related legislation;
9. Consider expanding protections to additional classes of people to ensure equal treatment for broader segments of the population;
10. Update affirmative action policy based on the scope of the new state law; and
11. Explore interlocal agreements with municipalities located within the county that do not have the resources to enact or enforce their own civil rights laws;

At the September 24, 2019 Law and Justice Committee, staff from the Korematsu Center provided a presentation on their final report.

**Summary of Proposed Ordinance 2019-0477.** The following provides a summary of each section of the proposed ordinance:

**Section 1.** This section would add a new chapter to King County Code Title 2 which would include the provisions of section 2 through 9.

**Section 2.** This section would list the definitions that would apply throughout the new chapter. This includes:

- a. "Protected class" which includes the list of protected classes that are currently included in federal and state laws, the county charter, and additional protected classes that were recommended in the Korematsu Report. The protected classes include "race, color, creed, religion, national origin, ancestry, age, sexual orientation, gender identity or expression, marital status, pregnancy, parental status, disability or use of a service or assistive animal by an individual with a disability, military discharge status, military service, lawful source of income, professional training or education, housing status, alienage or citizenship status, caregiver status, status as a victim of domestic violence, sexual offenses or stalking or any other status protected by federal, state or local law."; and
- b. "Antidiscrimination ordinances" which include the following King County Code titles and chapters:
  - Chapter 2.15 – Discrimination in citizen and immigration status;
  - Chapter 3.12D – Discrimination, harassment and inappropriate conduct;
  - Chapter 12.17 – Discrimination in contracting;
  - Chapter 12.18 – Discrimination in employment;
  - Chapter 12.20 – Discrimination in housing;
  - Chapter 12.22 – Discrimination in places of public accommodation;
  - Section 6.27A.120 – Discrimination in cable franchises; and
  - Section 7.08.080 – Discrimination in King County Parks by advertisers and sponsors.

**Section 3.** This section would establish the King County human and civil rights commission where the organization and administration of the commission shall be sufficiently independent; advance the human rights, including civil rights, of all county residents by representing the resident's interests; and ensure the principles of the United Nations Universal Declaration of Human Rights are applied.

**Section 4.** This section would establish the powers and duties of the commission which would include:

- a. Enforcing antidiscrimination ordinances and assist departments in complying with antidiscrimination ordinances;

- b. Assisting departments in complying with all federal, state, and local laws and rules regarding access to county programs, facilities and services for people with disabilities;
- c. Serving as the county Americans with Disabilities Act (ADA) coordinator;
- d. Serving as the county federal Civil Rights Act Title VI coordinator;
- e. Proposing ordinances related to human and civil rights to the council;
- f. Establishing rules and regulations to implement its authority including investigation and enforcement of antidiscrimination ordinances and implementation of affirmative action policies;
- g. Conducting and prioritizing a robust and ongoing community and stakeholder engagement process to ensure community input;
- h. Conducting research, public forums and educational programs on social stresses that impact the cohesion between groups in the county to support building of alliances and evaluate means of alleviating discrimination and bias and of improving human relations within the county;
- i. Entering into interlocal agreement, with council approval, with any governmental entity within King County, or any state or federal agency, to share investigation and enforcement of discrimination, sexual harassment or other human and civil rights violations;
- j. Monitoring and reviewing the implementation of antidiscrimination ordinances and affirmative action policies to determine compliance and effectiveness;
- k. Leading county efforts in raising community awareness on human and civil rights issues and on the purpose and work of the commission;
- l. Advising the county executive, the council and the public on county's policies related to human and civil rights or that impact communities most disproportionately impacted by inequities and discrimination; and
- m. Delivering an annual report to the council.

**Section 5.** This section would establish the requirements of the commission and the terms of their appointment. The commission would be composed of 11 regular members and up to 5 special members.

The key requirements for the **regular** members include:

- a. Representation from a broad range of protected classes to reflect the diversity of the county's communities;
- b. All members shall demonstrate active and engaged civic participation in human and civil rights;
- c. Membership shall reflect gender diversity;
- d. Membership shall represent a diverse range of age groups;

- e. At least one member shall have experience with investigations and enforcement of human and/or civil rights or both;
- f. At least one member shall have experience with the laws, regulations and rules related to people with disabilities;
- g. At least one member shall have familiarity with King County government, systems and agencies;
- h. All members must be residents of King County;
- i. A member shall not hold or campaign for elective office;
- j. The county executive and council shall jointly announce a call for applications to seek candidates for appointment and work collaboratively to ensure that the announcement is publicized widely, in particular to those communities that are disproportionately impacted by inequities and discrimination;
- k. For initial appointments, a recommending committee that includes two council representatives and two executive representatives would recommend a list of candidates for the executive's consideration; and for vacancies, a recommending committee that includes two council representatives, two executive representatives, and three former members of the human and civil rights commission would recommend a list of candidates for the executive's consideration;
- l. 10 members of the commission shall be appointed by the county executive and confirmed by the council and the 11<sup>th</sup> member shall be appointed by the other 10 members and confirmed by the council; and
- m. To stagger vacancies within the commission, for the initial appointment, 5 regular commission positions shall have initial terms of 3 years, 3 positions shall have initial terms of 2 years and the remainder of the positions shall have initial terms of 1 year and all subsequent terms would be 3 years.

The key requirements for the **special** members include:

- a. A special member shall be appointed from each governmental entity within King County that has entered into an interlocal agreement with the county for the county to provide the services of investigating and enforcing antidiscrimination laws adopted by that governmental entity, in accordance with the terms of the interlocal agreement;
- b. The term of a special member for a governmental entity under this section shall be coterminous with the term of the governmental entity's interlocal agreement with the county; and
- c. If there are six or more governmental entities that have entered into an interlocal agreement with the county, then those governmental entities shall convene to select individuals to the five special member positions,



the term of each shall be determined by the convening governmental entities but shall not exceed the term of the interlocal agreement of the governmental entity appointing the individual.

**Section 6.** This section would establish subpoena powers for the commission and outline the requirements of such subpoena powers.

**Section 7.** This section would authorize the commission to appoint an executive director, upon approval by the council. This section would also make the executive director and their staff council employees and prohibit them to hold or campaign for elective office. The executive director would have the following key duties:

- a. Perform any duties as delegated by the commission including all duties outlined in sections 4 and 6;
- b. Make and enforce contracts;
- c. Propose to the commission a recommended budget;
- d. Coordinate with county departments, governmental entities within King County, any state or federal agency and any other stakeholders that would support the work of the commission;
- e. Manage the commission's finances as authorized by the commission's budget and by county ordinances; and
- f. Manage commission staff and delegate authority to staff as appropriate.

Lastly, an employee from the office of equity and social justice would staff the commission until the initial executive director is appointed by the commission.

**Section 8.** This section would require that the council appropriate moneys to support the activities of the commission and delegate to the commission to transmit a biennial budget to the executive. The section would also require that the commission members receive a per diem compensation of \$50 (increased annually by inflation) per attendance of one commission meeting per month and be reimbursed for all transportation costs.

**Section 9.** This section would require all boards and commissions, county departments or agencies and the officers, employees and agents of those departments and agencies to cooperate fully with the commission.

**Section 13.** This section would amend K.C.C. 2.16.035 to decommission the office of civil rights and all its duties. All of the duties under the office of civil rights would be transferred to the human and civil rights commission under section 4.

**Section 14.** This section would amend K.C.C. 2.28.0015 to remove the civil rights commission of those county boards and commissions to have geographic diversity when appointing and confirming members.

**Section 15.** This section would amend K.C.C. 2.55.010 to remove the requirement that the chair of the King County Section 504/Americans with Disabilities Act advisory committee be a member of the civil rights commission.

**Section 16.** This section would repeal K.C.C. Chapter 3.10 to decommission the existing civil rights commission.

**Section 21.** This section would establish a new second tier<sup>8</sup> General Fund subfund entitled the “human and civil rights commission” fund to assure the independence of the commission. The fund would be managed by the executive director of the human and civil rights commission and be used to support the activities of the commission.

**Sections 10-12, 17-20, 22-79.** These sections would amend various section of King County Code to do the following:

- a. Transfer any activities of the “office of civil rights” to the “human and civil rights commission”; and
- b. Update existing list of protected classes with the following list of protected classes: “race, color, creed, religion, national origin, ancestry, age, sexual orientation, gender identity or expression, marital status, pregnancy, parental status, disability or use of a service or assistive animal by an individual with a disability, military discharge status, military service, lawful source of income, professional training or education, housing status, alienage or citizenship status, caregiver status, status as a victim of domestic violence, sexual offenses or stalking or any other status protected by federal, state or local law” as defined by section 2 above.

**Summary of Proposed Motion 2019-0476.** The following provides a summary of each section of the proposed motion:

**Section I.** This section would amend Section OR 2-030 of the council’s Organizational Motion to include the human and civil rights commission executive director as an independent agency officer.

**Section II.** This section would amend Section OR 3-030 of the council’s Organizational Motion to require that the human and civil rights commission executive director report to the human and civil rights commission and be responsible for the efficient overall management and administration of the commission and the human and civil rights commission administration unit and its employees. This section would also amend the council’s organization chart (Attachment A to the proposed motion) to include the human and civil rights commission administrative unit under the list of independent agencies of the legislative branch.

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<sup>8</sup> According to K.C.C. 4A.10.530, a second tier fund means a fund that is not to be invested for its own benefit (does not collect interest that can be used for the fund’s benefit).

**Section III.** This section would add a new section to the council's Organizational Motion to establish the human and civil rights commission administration unit; require the legislative branch to provide staffing, facilities and services for the commission; and require the following requirements related to its employees:

- a. Job descriptions and classifications shall be reviewed and recommended by the commission and authorized by motion by the council;
- b. Commission to be responsible for the outreach, recruitment and hiring process for the executive director and hiring of the executive director be subject to appointment by motion by the council;
- c. Commission shall annually evaluate the performance of the executive director using a process established by the commission;
- d. Before initiating a hiring process, the executive director shall consult with the commission chair;
- e. In common with all county employees and officials and elected officials, employees of the unit shall comply with the King County code of ethics, K.C.C. chapter 3.04.

## **ANALYSIS**

**Gap Analysis: Korematsu Center Report Recommendations.** Council staff analysis has determined that Proposed Ordinance 2019-0477 and Proposed Motion 2019-0476 incorporates all of the recommendations from the Korematsu report except the following:

- Recommendation #3 (Establish the commission's permanence through a new provision in the county charter). As proposed, the human and civil rights commission would be established by ordinance rather than through a new provision in the county charter.
- Recommendation #10 (Update affirmative action policy based on the scope of the new state law). However, Proposed Ordinance 2019-0477 does allow the commission to do the following related to affirmative action:
  - Advise the county executive, the council and the public on the county's equal employment opportunity affirmative action plan;
  - Propose ordinances to the council on policies related to affirmative action; and
  - Adopt rules and regulations to implement county's affirmative action policies.

**Special Commission Members through Interlocal Agreements.** The proposed ordinance would allow the appointment of up to 5 special members that would be appointed by local governments within King County that enter into interlocal agreement with the county to allow the newly established Human and Civil Rights Commission to investigate and enforce antidiscrimination ordinances adopted by those local governments. Council staff has determined that the model of special commission

members were adapted from the county’s Landmark Commission<sup>9</sup>, which also allows special members to be appointed by local governments that enter into interlocal agreement with the county. However, it should be noted that special members of the Landmark Commission are limited to voting on issues explicitly authorized by King County Code. Such explicit limitations would not be included for special members of the Human and Civil Rights Commission.

**Protected Classes.** Proposed Ordinance 2019-0477 would expand the list of protected classes throughout King County Code to include those in federal and state laws, the county charter, and additional protected classes that were recommended in the Korematsu Report. A “protected class” refers to a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. Council staff analysis has determined that the list of protected classes has been inconsistently applied throughout King County Code. This includes inconsistencies between the county charter and the county’s antidiscrimination ordinances, as defined by the proposed ordinance<sup>10</sup>. These inconsistencies may have been a result of policy choices and/or a result of inconsistently amending the list of protected classes throughout King County Code when updating the list of protected classes.

Council staff has determined that the proposed ordinance would amend all sections of King County Code to consistently apply the list of protected classes that are listed in Table 1 below. Table 1 below compares the protected classes at the federal, state, and the county charter with Proposed Ordinance 2019-0477. The list of protected classes in Proposed Ordinance 2019-0477 is substantively different from the county charter and also allows for protection for “any other status protected by federal, state, or local law.”

**Table 1. Comparison of protected classes included in federal and state laws and King County Charter versus Proposed Ordinance 2019-0477.**

Protected Class	State <sup>11</sup>	Federal <sup>12</sup>	KC Charter	PO 2019-0477
Race	✓	✓	✓	✓
Color	✓	✓	✓	✓
Age	✓	✓ (40 and over)	✓	✓
Sex	✓	✓	✓	no
Sexual orientation	✓	✓ (sex per EEOC)	✓	✓
Gender identity or expression	no	✓ (sex per EEOC)	✓	✓
Religion	no	✓	✓ (religious affiliation)	✓

<sup>9</sup> K.C.C. Chapter 20.62.

<sup>10</sup> K.C.C. chapters 2.15, 3.12D, 12.17, 12.18, 12.20 and 12.22 and K.C.C. 6.27A.120 and 7.08.080.

<sup>11</sup> RCW 49.60.0101.

<sup>12</sup> Civil Rights Act of 1964 and other federal laws.

Protected Class	State <sup>11</sup>	Federal <sup>12</sup>	KC Charter	PO 2019-0477
National origin	✓	✓	✓	✓
Disability	✓ (Presence of any sensory, mental, or physical disability)	✓	✓	✓
Gender	✓ (sex)	✓ (sex)	no	✓
Honorably discharged veteran or military status	✓	✓ (veteran status)	no	✓ (military discharge status, military service)
Families with children	✓	✓ (familial status)	no	✓ (any other status protected by federal and state law)
Marital status	✓	no	no	✓
Use of a service or assistive animal by an individual with a disability	✓ (use of a trained dog guide or service animal by a person with a disability)	no	no	✓
Creed	✓	no	no	✓
Genetic information	no	✓	no	✓ (any other status protected by federal law)
Pregnancy	no	✓	no	✓
Ancestry	no	no	no	✓
Parental status	no	no	no	✓
Lawful source of income	no	no	no	✓
Professional training or education	no	no	no	✓
Housing status	no	no	no	✓
Alienage or citizenship status	no	no	no	✓
Caregiver status	no	no	no	✓
Status as a victim of domestic violence, sexual offenses or stalking	no	no	no	✓

Executive staff state that while they support the expansion of the protected classes, to do so broadly may lead to confusion. They state the proposed ordinance does not define any of the newly added protected classes and includes classes that do not seemingly belong. They cite the following examples of concern:

- “Military discharge status” without proper clarification may give the same protections and potential benefits to a dishonorably discharged person as that of an honorably discharged veteran; and
- “Lawful source of income” or “housing status” to apply in places of public accommodation or employment within King County is problematic and raise a number of potential unintended consequences that need addressing and further study.

Moreover, executive staff state that they would recommend delaying action on the proposed ordinance, similar to what was done for Proposed Ordinance 2019-0331 at the November 20, 2019 Council meeting with the definition of “service or assistive animal”, to allow time for dialogue and community engagement before making the changes to the protected classes and to the structure of these functions.

**Comparison to PO 2019-0330 (Equity, Civil Rights & Social Justice Commission).**

As stated in the *Background* section above, the executive transmitted Proposed Ordinance 2019-0330 to decommission the existing Civil Rights Commission and establish a new Equity, Civil Rights and Social Justice Commission. Table 2 provides an analysis comparing the executive proposed Equity, Civil Rights & Social Justice Commission with the proposed ordinance to establish the Human and Civil Rights Commission.

**Table 2. Comparison of executive proposed Equity, Civil Rights and Social Justice Commission and Proposed Ordinance 2019-0447 establishing the Human and Civil Rights Commission.**

No.	Provisions	Human and Civil Rights Commission	Equity, Civil Rights, & Social Justice Commission
1	Sufficiently independent (ability to hire independent staff)	✓	
2	References to human rights and principles of the United Nations Universal Declaration of Human Rights	✓	
3	Appoint executive director and staff	✓	
4	Establish an independent administrative unit under the legislative branch	✓	
<b>AUTHORITIES</b>			

No.	Provisions	Human and Civil Rights Commission	Equity, Civil Rights, & Social Justice Commission
5	Establish subpoena powers	✓	Status quo via Office of Civil Rights
6	Enforcing antidiscrimination ordinances and assist departments in complying with antidiscrimination ordinances	✓	Status quo via Office of Civil Rights
7	Assisting departments in complying with all federal, state, and local laws and rules regarding access to county programs, facilities and services for people with disabilities	✓	Status quo via Office of Civil Rights
8	Serving as the county Americans with Disabilities Act (ADA) coordinator	✓	Status quo via Office of Civil Rights
9	Serving as the county federal Civil Rights Act Title VI coordinator	✓	Status quo via Office of Civil Rights
10	Proposing ordinances related to human and civil rights to the council	✓	✓ (no mention of human rights but rather equity and social justice)
11	Establishing rules and regulations to implement its authority including investigation and enforcement of antidiscrimination ordinances and implementation of affirmative action policies	✓	
12	Conducting and prioritizing a robust and ongoing community and stakeholder engagement process to ensure community input	✓	Not explicitly proposed but inferred
13	Conducting research, public forums and educational programs on social stresses that impact the cohesion between groups in the county to support building of alliances and evaluate means of alleviating discrimination and bias and of improving human relations within the county	✓	

No.	Provisions	Human and Civil Rights Commission	Equity, Civil Rights, & Social Justice Commission
14	Entering into interlocal agreement, with council approval, with any governmental entity within King County, or any state or federal agency, to share investigation and enforcement of discrimination, sexual harassment or other human and civil rights violations	✓	
15	Monitoring and reviewing the implementation of antidiscrimination ordinances and affirmative action policies to determine compliance and effectiveness	✓	Not explicitly proposed but inferred
16	Leading county efforts in raising community awareness on human and civil rights issues and on the purpose and work of the commission	✓	Not explicitly proposed but inferred
17	Advising the county executive, the council and the public on county's policies related to human and civil rights or that impact communities most disproportionately impacted by inequities and discrimination	✓	✓ (no mention of human rights but rather equity and social justice)
18	Delegate to the commission to transmit a biennial budget to the executive	✓	
19	Delivering an annual report to the council	✓	✓
<b>REQUIREMENTS FOR MEMBERSHIP AND APPOINTMENT</b>			
20	Number of members	11 regular Up to 5 special	15
21	Representation from a broad range of protected classes to reflect the diversity of the county's communities	✓	✓
22	A member shall not hold or campaign for elective office	✓	



No.	Provisions	Human and Civil Rights Commission	Equity, Civil Rights, & Social Justice Commission
23	Removes the civil rights commission of those county boards and commissions to have geographic diversity when appointing and confirming members	✓	
24	Remove the requirement that the chair of the King County Section 504/Americans with Disabilities Act advisory committee be a member of the civil rights commission	✓	
25	Up to 5 special members shall be appointed from each governmental entity within King County that has entered into an interlocal agreement with the county for the county to provide the services of investigating and enforcing antidiscrimination laws adopted by that governmental entity	✓	
26	One member shall be appointed by the other members and confirmed by the council	✓	
27	Two members shall be from community organizations, including at least one whose main office is physically located inside of unincorporated King County		✓
28	At least eight members shall be from suburban cities and unincorporated areas		✓
29	One member shall be held by a member of the immigrant and refugee commission		✓
30	Commission shall have representatives that includes all nine council districts		✓

No.	Provisions	Human and Civil Rights Commission	Equity, Civil Rights, & Social Justice Commission
31	At least five members shall represent and be recommended by a community organization and of those members, at least three shall represent and be recommended by a grass-roots community-based organization that has an annual budget of less than two-hundred fifty thousand dollars		✓
32	The county executive and council shall jointly announce a call for applications to seek candidates for appointment	✓	✓
33	For initial appointments, a recommending committee that includes two council representatives and two executive representatives would recommend a list of candidates for the executive's consideration; and for vacancies, a recommending committee that includes two council representatives, two executive representatives, and three former members of the commission	✓	✓
34	To stagger vacancies within the commission, initial appointments shall be determined by lot	✓ (determined by commission)	✓ (determined by executive)
35	Three year appointments	✓	✓
36	Members receive a per diem compensation and reimbursement for transportation costs	✓	✓

Executive staff has stated that the key difference between the Equity, Civil Rights and Social Justice Commission and the Human and Civil Rights Commission is that the proposed ordinance would make a full transfer of executive functions to the Human and Civil Rights Commission and the associated staffing changes. Executive staff state that most of the provisions of the Human and Civil Rights Commission are either already in-line with the current activities of the Civil Rights Program<sup>13</sup> or welcome changes that

<sup>13</sup> As stated in the Background section, through the 2017-2018 Biennial Budget, the Council moved the functions of the Office of Civil Rights to the Office of Equity and Social Justice which administratively changed the Office of Civil Rights to a Civil Rights Program.

could be incorporated into the existing structure. Executive staff also state that the Civil Rights Program is now integrated into Office of Equity and Social Justice and it could be detrimental to the communities that are served by the Office and the Civil Rights Program employees without a thorough understanding of the implications of the proposed ordinance.

**Community Engagement.** On May 2019, the Korematsu Center and staff of Councilmembers Gossett and Dembowski, that are sponsors of the proposed legislations, conducted a work session with members of the current civil rights commission to brief the members on the Korematsu Center's research and findings and gather input from the members on their vision for the county on human and civil rights issues. The work session was attended by 2 of the 8 active commission members at that time. In addition, Councilmember Dembowski's office stated that outreach was conducted with councilmembers with King County suburban cities and Councilmember Gossett's office stated that they are planning to reach out to communities during Week of December 2, 2019 regarding the proposed ordinance.

For reference, executive staff stated that the existing Civil Rights Commission and community stakeholders were engaged in the drafting of Proposed Ordinance 2019-0330 (Equity, Civil Rights, and Social Justice Commission) for over a year. In addition, executive staff engaged in person with two cohorts of Puget Sound Sage's Community Leadership Institute (CLI), which informed the development of the Proposed Ordinance 2019-0330. CLI trains and builds capacity among leaders of color to serve on government boards and commissions. Many of the CLI participants expressed interest in applying and being part of the Equity, Civil Rights and Social Justice Commission. Executive staff also stated that they met with community organizations, such as the Council on American-Islamic Relations, students at Bellevue College and the Immigrant and Refugee Commission.

**Organizational Impacts to the County.** Proposed Ordinance 2019-0477 would amend King County Code to decommission the existing Civil Rights Commission. According to council legislative history, there currently exists the following 2 active members:

- District 7 – Linda Walker (term ending on June 1, 2020)<sup>14</sup>
- District 3 – Jason Ritchie (term ending on June 1, 2020)<sup>15</sup>

However, according to executive staff there are currently 6 active members as detailed below. They state that the District 7 and 3 appointees are vacant and those members whose terms have already ended are still considered active as per K.C.C. 2.28.003.C, which allows those members who term has expired to continue to serve until a successor is appointed and either is confirmed.

- District 1 – Samir Junero (term ended June 1, 2019)
- District 2 – VACANT

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<sup>14</sup> Motion 14931, adopted August 14, 2017.

<sup>15</sup> Motion 15015, adopted December 11, 2017.

- District 3 – VACANT
- District 4 – Daphra Holder (term ended June 1, 2019)
- District 5 – VACANT
- District 6 – Carlos Becker (term ended June 1, 2019)
- District 7 – VACANT
- District 8 – Chase Anderson (term ended June 1, 2019)
- District 9 – Sontrana Gates-Wertman (term ended June 1, 2019)
- At-large Appointee – VACANT
- At-large Appointee – VACANT
- At-large Appointee – Ollie Garrett (term ended June 1, 2017)

The proposed ordinance would also eliminate the Office of Civil Rights and transfer all of their duties to the newly established Human and Civil Rights Commission. Currently, the office is comprised of 2.0 FTEs which include a Civil Rights Manager and a Civil Rights Program Manager. Executive staff state that the current staff of the Office of Civil Rights are highly integrated into the Office of Equity and Social Justice (OESJ) and also consult and support departments on Civil Rights compliance and equity, working closely with the OESJ Director and other staff and removing those staff would impact the current work by OESJ that intersects civil rights and equity.

**Cost Analysis.** The Korematsu Report included an inventory of staffing models of commissions of other local jurisdictions across the United States including the county's Office of Law Enforcement Oversight (OLEO). Based on this inventory, the report stated that a comprehensive staff for a human and civil rights commission would include – in addition to an executive director – at a minimum 6.0 FTEs which would include a civil rights investigator, an attorney, a policy analyst, a program manager, and administrative staff. The report also stated that the number of FTEs for each position type would depend on the level of authority that would be granted to a human and civil rights commission, the number of new policies that the commission would proactively pursue, expansion of protected classes, the level of community engagement, and the number of cases. According to the report, the annual cost of 6.0 FTEs including the executive director would be approximately \$875,000<sup>16</sup>. However, executive staff state that a fully staffed Human and Civil Rights Commission would be closer to \$1.0 to \$1.5 million per year<sup>17</sup> to include costs for space, equipment, travel, etc.

As mentioned in the *Background* section above, for reference the Office of Civil Rights currently staffs 2.0 FTEs with an annual budget of \$238,000.

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<sup>16</sup> Based on county personnel costs: Executive Director = \$200,000; Civil Rights Investigator = \$160,000; Attorney = \$160,000; Policy Analyst = \$130,000; Program Manager = \$125,000; Administrative Staff = \$100,000.

<sup>17</sup> Based on PSB estimates using Office of Law Enforcement Oversight as reference: Executive Director = \$242,000; Civil Rights Investigator = \$20,000; Attorney = \$200,000; Policy Analyst = \$150,000; Program Manager = \$160,000; Administrative Staff = \$150,000.

## **ADDITIONAL EXECUTIVE STAFF FEEDBACK**

**General Feedback.** In general, executive staff state that they are currently working on many changes that already align with the proposed legislations to establish the Human and Civil Rights Commission and the recommendations proposed by the Korematsu Center for Law and Equality's Report. Executive staff state that they are interested in a continued analysis to determine the budget and operational impacts of the proposed ordinance and there are concerns about clarity, incorporating community feedback, and some labor and legal issues that need further analysis. Lastly, executive staff state that they are looking forward to working with council in addressing and analyzing the many areas of interest to ensure the new commission, in whatever form, best serves constituents and protects communities from discrimination without interruption or delay.

**Providing Staff Support Prior to Executive Director Appointment.** Section 7 of the proposed ordinance requires that the Office of Equity and Social Justice provide staff support to the newly established Human and Civil Rights Commission until the commission's appointment of an executive director. Executive staff state that there is currently no capacity to allow a single Civil Rights staff person to take on additional duties to support the new commission in addition to their current duties at the Office of Equity and Social Justice.

**Feedback from Civil Rights Commission.** Executive staff state that a conference call was conducted with the current members of the Civil Rights Commission on Oct 22, 2019 to share with them updates to the executive transmitted Proposed Ordinance 2019-0330 (Equity, Civil Rights and Social Justice Commission) and the Korematsu report. Executive staff state the proposed legislations to establish the Human and Civil Rights Commission was shared with the current members of the Civil Rights Commission on the week of November 18<sup>th</sup> but discussions about the proposed ordinance had not yet taken place.

**Unclear on Authority.** Executive staff state that the proposed legislations to establish the Human and Civil Rights commission is unclear on which branch of county government the new commission would operate under. Furthermore, executive staff state that transferring antidiscrimination ordinance enforcement to the Human and Civil Rights Commission may require amendments to the County Charter. Lastly, executive staff state that they are open to working with council in addressing such issues.

**Other Agency Impacts.** Executive staff state that changes to the list of protected classes and transferring the authority of investigation and enforcement from the Office of Civil Rights to the Human and Civil Rights Commission may have impacts to the Department of Human Resources (affirmative action policy and training), Department of Community and Human Services (military discharge status and its impacts on veterans' programming), Finance and Business Operations Division (franchising and contracting), Road Services Division, Parks and Recreation Division, and Metro Transit (Title VI that may conflict with federal and state requirements). Executive staff further states that they

cannot speak to specifics of the impacts and it would be important to engage those identified agencies.

## **RESPONSES TO QUESTIONS FROM NOVEMBER 12<sup>TH</sup> L&J MEETING**

### **1. Are there other agencies of county government that the Council has granted subpoena powers to?**

**RESPONSE:** Here are the agencies of county government that currently hold subpoena powers as granted by the council and the County Charter:

- *Ombuds*
  - Investigate complaints concerning the operation of county government as provided by King County Charter Section 260 and K.C.C. Chapter 2.52 (King County Office of Citizen Complaints / Tax Advisor)
  - Investigate complaints related to K.C.C. Chapter 1.07 (Lobbyist Disclosure)
  - Investigate complaints related to K.C.C. Chapter 3.04 (Employee Code of Ethics)
  - Investigate complaints related to K.C.C. Chapter 3.42 (Whistleblower Protection) except the legislative branch
- *Personnel Board* – Investigate and enforce personnel rules as provided by King County Charter Section 530
- *Hearing Examiner*
  - Investigate appeals related to K.C.C. Chapter 1.07 (Lobbyist Disclosure)
  - Investigation related to K.C.C. Chapter 20.22 (Hearing Examiner)
- *County Auditor* – Auditor duties related to K.C.C. Chapter 2.20 (King County Auditor) with approval of the council by motion
- *Chief Medical Examiner* – Investigation related to K.C.C. Section 2.35A.090 (Department of Public Health – Medical Examiner)
- *Office of Law Enforcement Oversight* – Investigation related to K.C.C. Chapter 2.75 (Office of Law Enforcement Oversight)
- *Board of Ethics* – Investigate appeals related to K.C.C. Chapter 3.04 (Employee Code of Ethics)
- *Prosecuting Attorney* – Investigate K.C.C. Chapter 3.42 (Whistleblower Protection) for the legislative branch

- *Director of the Finance and Business Operations Division* – Investigate and enforce complaints related to K.C.C. Chapter 12.16 (Discrimination and Equal Employment Opportunity in employment by contractors, subcontractors, and vendors)
- *Office of Civil Rights* – Investigate and enforce complaints related to K.C.C. Chapters 12.17, 12.18, 12.20 and 12.22 (County’s Non-Discrimination Ordinances)

**2. Is the Council legally empowered to grant subpoena powers to the Civil Rights Commission?**

RESPONSE: Council’s legal counsel has reviewed the proposed ordinance, including the section related to subpoena powers, and found no issues.

**AMENDMENT**

Striking Amendment S1 would make technical edits to Proposed Ordinance 2019-0477 and Title Amendment T1 would correct the title of Proposed Ordinance 2019-0477 to reflect the legislation text as introduced.

**INVITED**

- Chris Bhang, Civil Rights Program Manager, Office of Equity and Social Justice
- Matias Valenzuela, Director, Office of Equity and Social Justice [*Unable to attend*]
- Janine Anzalota, Equity and Civil Rights Manager, Office of Equity and Social Justice [*Unable to attend*]
- Melissa Lee, Assistant Director, Korematsu Center for Law and Equality, Seattle University School of Law [*Unable to attend*]

**ATTACHMENTS**

1. Proposed Ordinance 2019-0477
2. PO 2019-0477 Striking Amendment S1
3. PO 2019-0477 Title Amendment T1
4. Proposed Motion 2019-0476 (and its attachment)
5. Research and Recommendations Regarding the King County Civil Rights Commission, September 24, 2019 (Seattle University School of Law’s Korematsu Center for Law and Equality)
6. Proposed Ordinance 2019-0330