

  
Councilmember Mary M. Cheh

1  
2  
3  
4  
5 A BILL  
6  
7  
8

9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
10  
11  
12  
13

14 To amend the Vital Records Act of 1981 to clarify the process for respecting a decedent's gender  
15 identity on his or her death certificate, to allow an individual with rights to decedent's  
16 remains to file a petition in Superior Court for determining gender identity, and to shield  
17 the person completing the death certificate from liability for damages or costs for how he  
18 or she enters the decedent's sex.  
19

20 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
21 act may be cited as the "Death Certificate Gender Identity Recognition Amendment Act of 2015".

22 Sec. 2. Section 12(a) of the Vital Records Act of 1981, effective October 8, 1981 (D.C.  
23 Law 4-34; D.C. Official Code § 7-211(a)), is amended to read as follows:

24 "(a) The funeral director or person acting as such who first takes custody of the dead body  
25 shall file a certificate of death. The death certificate shall contain those items necessary to establish  
26 the fact of the death, including personal data concerning decedent including full name, sex, color  
27 or race, marital status, name of spouse, date of birth and age at death, birthplace, usual residence,  
28 and occupation and industry or business.

29 "(1) A person completing the death certificate shall record the decedent's sex to  
30 reflect the decedent's gender identity, as that term is used in section 102(12A) of the Human Rights  
31 Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02(12A)).  
32 The decedent's gender identity shall be reported by the next of kin or the best qualified person

33 available, unless the person completing the death certificate is presented with a document that  
34 memorializes the decedent's gender transition.

35                   “(A) In case of conflicting information from sources, the death certificate  
36 shall be based on documentation that memorializes the decedent's gender transition. If  
37 documentation is not available, it shall be based on information from individuals most familiar  
38 with the decedent's gender identity at the time of death.

39                   “(B) Documents that may memorialize a gender transition include:

40                               “(i) Written instructions from the decedent;

41                               “(ii) A court order approving a name or gender change;

42                               “(iii) An advanced health care directive;

43                               “(iv) Documentation of an appropriate course of treatment for the  
44 purpose of gender transition; or

45                               “(v) Documentation of a change to the gender marker on a birth  
46 certificate, driver's license or state identification card, social security record, or passport.

47                   “(C) If a document specified in sub-paragraph (B) of this paragraph is not  
48 present and any person to whom the right to control the disposition of the remains of a deceased  
49 person, the location and conditions of interment, and arrangements for funeral goods and services  
50 may vest under the District of Columbia Funeral Services Regulatory Act of 1984, effective May  
51 22, 1984 (D.C. Law 5-84; D.C. Official Code § 3-413) (“interested parties”), do not agree with the  
52 gender identity of the decedent as reported by the informant, any one of those persons may file a  
53 petition in the Superior Court of the District of Columbia naming as party to the action interested  
54 parties and seeking an order of the court determining, as appropriate, who among those parties  
55 shall determine the gender identity of the decedent.

56                   “(2) A person completing the death certificate in compliance with this subsection  
57 shall not be liable for any damages or costs arising from claims related to the sex of the decedent  
58 as entered on the death certificate.”.

59                   Sec. 3. Fiscal impact statement.

60                   The Council adopts the fiscal impact statement in the committee report as the fiscal  
61 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
62 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

63                   Sec. 4. Effective date.

64                   This act shall take effect following approval by the Mayor (or in the event of veto by the  
65 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
66 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
67 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
68 Columbia Register.