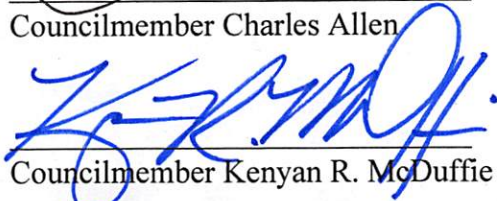


Councilmember Charles Allen



Councilmember Mary M. Cheh



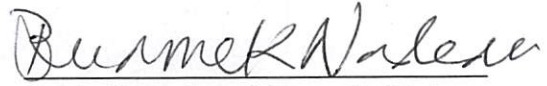
Councilmember Kenyan R. McDuffie



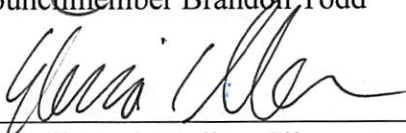
Councilmember Anita Bonds



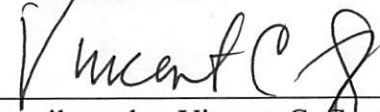
Councilmember Brandon Todd



Councilmember Brianne K. Nadeau



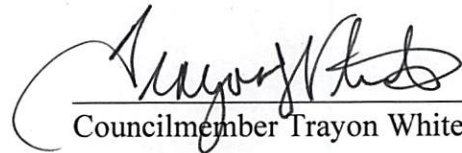
Councilmember Elissa Silverman



Councilmember Vincent C. Gray



Councilmember Robert White



Councilmember Trayon White

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Act on Aging to require that the Mayor, Deputy Mayor for Health and Human Services, District of Columbia Office on Aging, and Commission on Aging to interpret groups of greatest social need to include LGBTQ seniors and seniors with HIV for the purpose of allocating funds provided to the District under the federal Older Americans Act, and to amend the Human Rights Act of 1977 to establish an LGBTQ HIV long-term care bill of rights to establish explicit rights and legal protections for LGBTQ seniors and people with HIV in long-term care.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Care for LGBTQ Seniors and Seniors with HIV Amendment Act of 2019".

Sec. 2. Greatest social need.

43 Title III of the District of Columbia Act on Aging, effective March 3, 1979 (D.C. Law 1-
44 24, D.C. Official Code § 7-503.01 *et seq.*) is amended by adding a new section 307 to read as
45 follows:

46 “Section 307. Greatest social need.

47 “(a) For the purposes of administering the Older Americans Act, the term greatest social
48 need shall be interpreted to include LGBTQ older individuals and seniors with HIV.

49 “(b) Within 210 days after the effective date of the Care for LGBTQ Seniors and Seniors
50 with HIV Amendment Act of 2018, as introduced on October 16, 2018 (Bill 22-XXX), the
51 Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved
52 October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to
53 implement the provisions of this section.”.

54 Sec. 3. LGBTQ and HIV Senior Long-Term Care Bill of Rights.

55 Title II of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38;
56 D.C. Official Code § 2-1402.01 *et seq.*) is amended by adding a new Part J. to read as follows:

57 “Part J. Long-Term Care Facilities.

58 “Section 291. Definitions.

59 “For the purposes of this part, the term:

60 “(1) “Caregiver” shall mean any person who provides medical or non-medical
61 care to a resident of a long-term care facility.

62 “(2) “Harassment” shall include requiring a resident to show identity documents
63 or otherwise provide evidence of their sex or gender identity to gain entrance to a restroom or
64 other sex segregated facility or setting, available to other individuals of the same gender identity.

65 “(3) “HIV” shall mean the human immunodeficiency virus.

66 “(4) “Long-term care facility” shall have the same meaning as provided in section
67 101(7) of the D.C. Long-Term Care Ombudsman Program Act of 1988, effective March 16,
68 1989 (D.C. Law 7-218; D.C. Official Code § 7-701.01(7)).

69 “(4) “Representative of a resident” shall have the same meaning as provided in
70 section 101(14) of the D.C. Long-Term Care Ombudsman Program Act of 1988, effective March
71 16, 1989 (D.C. Law 7-218; D.C. Official Code § 7-701.01(14)).

72 “(5) “Resident” shall have the same meaning as provided in section 101(13) of the
73 D.C. Long-Term Care Ombudsman Program Act of 1988, effective March 16, 1989 (D.C. Law
74 7-218; D.C. Official Code § 7-701.01(13)).

75 “Section 292. Prohibitions.

76 “(a) It shall be unlawful for a long-term care facility, or an employee or contractor at such
77 a facility (“staff”), to do any of the following acts wholly or partially for a discriminatory reason
78 based on an individual’s actual or perceived sexual orientation, gender identity or expression, or
79 human immunodeficiency virus (“HIV”) status:

80 “(1) Deny an individual admission to a long-term care facility;

81 “(2) Refuse to transfer a resident, or transfer a resident to another long-term care
82 facility;

83 “(3) Discharge or evict a resident from a long-term care facility;

84 “(4) Deny a request by residents to share a room;

85 “(5) Where rooms are assigned by gender, assign or reassign a transgender
86 resident to a room that is not accordance with the resident’s gender identity or refuse to assign a
87 transgender resident to a room in accordance with the resident’s gender identity, unless at the
88 resident’s request;

89 “(6) Prohibit a resident from using, or harass a resident who seeks to use or does
90 use, a restroom available to other residents of the same gender identity, regardless of whether the
91 resident has taken or is taking hormones, has had transition-related surgery, or appears to be
92 gender non-conforming.

93 “(7) Willfully fail to use a resident’s preferred name or pronouns after being
94 clearly informed of the resident’s preferred name or pronouns;

95 “(8) Deny a resident the right to clothing, accessories, cosmetics, or engage in
96 grooming practices consistent with their gender identity and expression that are permitted for
97 other residents;

98 “(9) Restrict a resident’s right to privacy or free association with other residents
99 or with visitors, including the right to consensual expressions of intimacy or sexual relations; and

100 “(10) Deny or restrict a resident from accessing appropriate medical or
101 nonmedical care, or provide medical or nonmedical care, that unreasonably demeans the
102 resident’s dignity or causes avoidable discomfort.

103 “(b)(1) Staff not involved in providing direct care to a resident shall not be present during
104 physical examination or for the provision of personal care to that resident if the resident is
105 partially or fully unclothed without the express permission of that resident or the representative
106 of the resident.

107 “(2) A long-term care facility shall use doors, curtains, screens, or other effective
108 visual barriers to provide privacy for all residents whenever they are partially or fully unclothed.

109 “(3) Each resident or the representative of the resident shall be informed of and
110 have the right to refuse examination, observation, or treatment by any staff when the primary
111 purpose is educational or informational rather than medical. A refusal shall not diminish the
112 resident’s access to care for the primary purpose of diagnosis or treatment.

113 “(c) Subsections (a) and (b) of this section shall not apply to the extent that they are
114 incompatible with any professionally reasonable clinical judgment and where the staff provides
115 written documentation of the basis for that decision to the resident or the representative of the
116 resident.

117 “Section 293. Personal information.

118 “(a) At the time of a resident’s admission to a long-term care facility, the facility shall
119 gather information on the resident’s gender identity and preferred name and pronouns.

120 “(b) Long-term care facilities shall protect personally identifiable information regarding
121 residents’ sexual orientation, gender identity, transition history, and HIV status from
122 unauthorized disclosure, as required under the federal Health Insurance Portability and
123 Accountability Act of 1996, approved August 21, 1996 (110 Stat. 1936; 42 U.S.C. § 1320d *et*
124 *seq.*), and any other applicable provision of federal or District law. A long-term care facility
125 shall take reasonable steps to minimize the likelihood of inadvertent or incidental disclosure of
126 that information to other residents, visitors, or staff, except to the extent necessary for staff to
127 perform their duties.

128 “Section 294. Notice.

129 “Each long-term care facility covered by this section shall post notice in a conspicuous
130 location stating that the facility does not permit discrimination, including bullying, abuse, or
131 harassment on the basis of actual or perceived sexual orientation, gender identity or expression,
132 or HIV status, or based on association with an individual on account of that individual’s actual or
133 perceived sexual orientation, gender identity or expression, or HIV status. The notice described
134 under this subsection shall include information about a resident’s right to file a complaint of
135 discrimination with the Office on Aging.”.

136 “Section 295. Training.

137 “(a)(1) A least once every two years, caregivers employed by a long-term care facility
138 shall receive training on caring for LGBTQ seniors and seniors with HIV, and preventing
139 discrimination based on sexual orientation or gender identity or expression. A person required to
140 receive training under this section shall receive initial training within 6 months of hire unless the
141 person provides proof of having received training in compliance with this section within the prior
142 2 years.

143 “(2) A long-term care facility shall be responsible for the arranging and paying
144 any cost for trainings required under this section.

145 “(b) At a minimum, trainings under this section shall include:

146 “(1) Definitions of common terms associated with sexual orientation, gender
147 identity and expression, and HIV;

148 “(2) Best practices for communication with or about LGBTQ seniors or seniors
149 with HIV, including use of preferred pronouns for a patient;

150 “(3) Health and social challenges historically faced by LGBTQ seniors and
151 seniors with HIV, including discrimination faced by LGBTQ seniors and seniors with HIV when
152 seeking care in a long-term care facility, and health risks faced by transgender persons from
153 long-term hormone use and reconstructive surgery; and

154 “(4) Strategies to create a safe and affirming environment for LGBTQ seniors and
155 seniors with HIV, including information on how behavior towards LGBTQ seniors and seniors
156 with HIV by caregivers has historically impacted those communities’ access to medical care.

157 “(c) Trainings under this section shall be administered by an entity with expertise in
158 identifying and addressing legal and social changes faced by LGBTQ seniors and seniors with
159 HIV who reside in long-term care facilities.”

160 Sec. 4. Fiscal impact statement.

161 The Council adopts the fiscal impact statement in the committee report as the fiscal
162 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
163 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

164 Sec. 5. Effective date.

165 This act shall take effect following approval by the Mayor (or in the event of veto by the
166 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
167 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
168 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
169 Columbia Register.