



MURIEL BOWSER
MAYOR

April 6, 2021

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson,

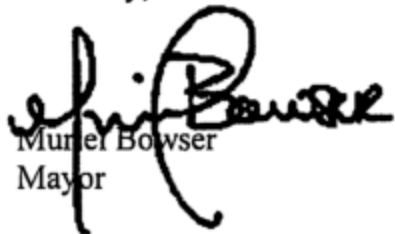
Enclosed for consideration and approval by the Council of the District of Columbia is the "HIV/AIDS Data Privacy Protection Amendment Act of 2021." The proposed law will amend the AIDS Health-Care Response Act of 1986, effective June 10, 1986 (D.C. Law 6-121; D.C. Official Code § 7-1605) ("Act") by limiting who may authorize the release of information obtained, collected, or produced by the Department of Health during the course of routine public health surveillance under the Act. The proposed legislation would prevent such identifying information from being obtained through discovery, or admitted as evidence, in a criminal or civil case in the District of Columbia courts.

The Department of Health is notified by providers in the District of any new case of HIV or AIDS. The Department then conducts routine public health surveillance and disease investigation as part of its public health mandate. Advances in science have allowed the program to not only collect and analyze case information, but also to produce new data by comparing the genetic sequences of individual HIV viral strains with a software application. This new data is commonly called "molecular HIV surveillance" data and enables the Department of Health to find "clusters" of HIV transmissions and to provide testing and other services to people living with or at risk of HIV. This new technology has been approved for use by the U.S. Centers for Disease Control and Prevention and is currently being used by other states' public health agencies.


District residents, people living with HIV, health care professionals, and public health experts, including members of the Washington DC Regional Planning Commission on Health and HIV, have expressed concerns that the Department of Health could be required to share information related to HIV surveillance, including information from molecular HIV surveillance, in court proceedings. This proposed legislation is designed to help address these concerns by updating the law to protect this sensitive health information and reinforce that the Department's HIV surveillance activities are focused on improving population health.

I urge the Council to take prompt and favorable action on the enclosed proposed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser". The signature is fluid and cursive, with the first name "Muriel" written in a larger, more prominent script than the last name "Bowser".

Muriel Bowser
Mayor


Chairman Phil Mendelson
at the request of the Mayor

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7 A BILL
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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15 To amend the AIDS Health-Care Response Act of 1986 to repeal a provision authorizing a court
16 to require the disclosure of surveillance information and data collected by the Department
17 of Health for statistical and public health purposes concerning incidents of HIV and
18 AIDS within the District of Columbia and to add a provision to protect the confidentiality
19 of HIV surveillance data and information.
20

21 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
22 act may be cited as “HIV/AIDS Data Privacy Protection Amendment Act of 2021”.

23 Sec. 2. Section 6 of the AIDS Health-Care Response Act of 1986, effective June 10, 1986
24 (D.C. Law 6-121; D.C. Official Code § 7-1605), is amended to read as follows:

25 “Sec. 6. Confidentiality of medical records and information.

26 “The Director shall use the records incident to a case of HIV infection or AIDS reported
27 under this act for statistical and public-health purposes only. Identifying information contained in
28 these records, as well as identifying information obtained, collected, or produced by the
29 Department pursuant to its public health duty under this act, shall be disclosed by the Director
30 only when essential to safeguard the physical health of others. No person shall otherwise disclose
31 such identifying information unless the person about whom the information pertains gives his or
32 her prior written permission. Identifying information obtained, collected, or produced by the
33 Department pursuant to its public health duty under this act shall not be discoverable and shall

34 not be admissible in evidence in any civil or criminal action unless the person about whom the
35 information pertains gives his or her prior written permission.”.

36 Sec. 3. Fiscal impact statement.

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

40 Sec. 4. Effective date.

41 This act shall take effect following approval by the Mayor (or in the event of veto by the
42 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
43 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
44 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
45 Columbia Register.


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: February 7, 2020

SUBJECT: Fiscal Impact Statement – HIV/AIDS Data Privacy Protection
Amendment Act of 2020

REFERENCE: Draft Introduction as provided to the Office of Revenue Analysis on
February 5, 2020

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Background

Health care providers notify the Department of Health (DOH) each time they diagnose a new case of HIV or AIDS in the District. DOH then conducts a routine public health surveillance and disease investigation which entails collecting and analyzing case information. The bill limits¹ the disclosure of identifying information collected during health surveillance and investigations to instances where the information is essential to safeguard the physical health of others or when a written consent is given by the person that is newly diagnosed with HIV or AIDS. The bill also specifies that all identifying information obtained, collected, or produced by DOH is not discoverable and is not admissible in evidence in any civil or criminal action, unless the person about whom the information pertains gives his or her prior written permission.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. The bill does not have a cost. DOH can implement the data privacy protections without additional resources.

¹ By amending Section 6 of the AIDS Health-Care Response Act of 1986, effective June 10, 1986 (D.C. Law 6-121; D.C. Official Code § 7-1605).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Legal Counsel Division

MEMORANDUM

TO: Ronan Gulstone
Executive Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: April 2, 2021

SUBJECT: Legal Sufficiency Review of the “HIV/AIDS Data Privacy Protection
Amendment Act of 2021”
(AE-20-063B)

This is to Certify that this Office has reviewed the above-referenced legislation and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

Brian K. Flowers

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