

GLAA

# AGENDA 2013

GAY AND LESBIAN ACTIVISTS  
ALLIANCE OF WASHINGTON DC



## AGENDA: 2013

**A special-election guide to local LGBT issues in Washington, D.C.**

This document is subject to revision.

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# AGENDA: 2013

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## Table of Contents

<b>1. Action Item Summary .....</b>	<b>1</b>
<b>2. Marriage and Family.....</b>	<b>3</b>
2.1 Preserving Civil Marriage Equality .....	3
2.2 Domestic Partnership.....	3
2.3 Surrogacy Law .....	4
2.4 Marriage Officiants .....	4
<b>3. Public Health .....</b>	<b>5</b>
3.1 HIV and AIDS .....	5
3.1.1 Reforms at HIV/AIDS, Hepatitis, STD, and TB Administration .....	5
3.1.2 Testing for Sexually Transmitted Diseases .....	5
3.1.3 Post-Exposure Prophylaxis.....	6
3.1.4 HIV Prevention.....	6
3.1.5 Repeal HIV Testing of Certain Criminal Offenders Act .....	6
3.2 Health Data Collection .....	7
3.3 Cultural Competency for Service Providers.....	7
3.4 Medical Marijuana .....	8
3.5 Women’s Health Needs .....	8
3.6 Transgender Health Needs.....	8
3.7 Human Papillomavirus Vaccination .....	9
3.8 Tobacco Prevention .....	9
3.9 Tuberculosis, Hepatitis and Substance Abuse.....	10
<b>4. Public Safety and Judiciary.....</b>	<b>11</b>
4.1 Gay and Lesbian Liaison Unit and Police Response to Hate Crimes.....	11
4.2 Police and Court Attitudes Toward Transgender People.....	11
4.3 Anti-Transgender Profiling by MPD.....	12
4.4 MPD Diversity Training and Discipline .....	12
4.5 Intimate Partner Violence.....	12
4.6 Separating Local Policing from Immigration Enforcement .....	13
4.7 Office of the U.S. Attorney .....	13
4.8 Office of Police Complaints .....	14
4.9 Fire and Emergency Medical Services Department.....	14
4.10 Department of Corrections .....	14
<b>5. Human Rights.....</b>	<b>15</b>
5.1 Office of Human Rights .....	15
5.2 Funding for Office of Human Rights and Commission on Human Rights .....	15
5.3 Combating Transgender Discrimination .....	15
5.4 Changing Original Birth Certificate.....	16
5.5 Shelter Safety .....	16
5.6 Affordable Housing .....	16
5.7 Honors for the Honorable.....	17
5.8 Grantmaking Authority for Office of GLBT Affairs .....	17
5.9 Repeal the Armstrong Amendment.....	17

# AGENDA: 2013

---

<b>6. Youth and Seniors.....</b>	<b>18</b>
6.1 School Vouchers.....	18
6.2 Transitional Housing for Homeless LGBT Youth .....	18
6.3 Youth Risk Behavior Survey.....	18
6.4 Anti-Bullying Law and DCPS Efforts .....	19
6.5 Health Education.....	19
6.6 Gay-Straight Alliances.....	19
6.7 Condom Availability .....	19
6.8 Medicaid Spousal Impoverishment Protections .....	20
6.9 Training for Providers of Senior Services .....	20
6.10 Funding for LGBT Senior Services.....	20
<b>7. Consumers and Businesses .....</b>	<b>22</b>
7.1 Reforming Liquor Licensing Procedures .....	22
7.2 Defending Adult Entertainment .....	23
7.3 Prostitution: Alternatives to Incarceration.....	23
7.4 Combating Transgender Unemployment .....	23

# AGENDA: 2013

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## 1. Action Item Summary

Welcome to "Agenda: 2013," GLAA's policy brief on local LGBT issues in Washington, D.C. Here is a top-level summary of the actions we consider necessary to improve the lives of LGBT residents.

1. Defend civil marriage equality and oppose any congressionally mandated referendum.
2. Maintain the domestic partnership law.
3. Pass Bill 20-0032, "Surrogacy Parenting Agreement Act of 2013."
4. Increase the number of people who can be wedding officiants.
5. Include sexual orientation and gender identity in the data collection efforts of the D.C. Department of Health (DOH).
6. Publish an annual LGBT health report.
7. List sexual orientation and gender identity as a health priority to ensure adequate funding and culturally competent interventions.
8. Deliver community-informed LGBT-inclusive cultural competency training to all social service providers, government employees, employment service programs and employers in the city.
9. Continue reforms at HIV/AIDS, Hepatitis, STD, and TB Administration (HAHSTA) to ensure the most inclusive response to HIV/AIDS in the city.
10. Increase funding and awareness for HIV Testing.
11. Develop evidence-based HIV prevention strategies, including increased condom distribution and post-exposure prophylaxis (PEP) for HIV at all D.C. emergency rooms, urgent care centers and health clinics.
12. Defend clean needle exchange and medical marijuana.
13. Extend the HPV vaccination program to boys in accordance with CDC guidelines.
14. Follow the CDC recommendation that D.C. commit \$10.5 million for tobacco prevention.
15. Fully staff the Metropolitan Police Department's Gay and Lesbian Liaison Unit (GLLU) and provide cultural competency training for all officers including implementation of the transgender and domestic/intimate partner violence policies.
16. Repeal the so-called Prostitution Free Zones (PFZs) law.
17. Improve data collection and reporting on LGBT-related hate crimes and domestic violence.
18. Develop a comprehensive multi-agency/service provider strategy to reduce hate crimes.

# AGENDA: 2013

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19. Provide adequate funding for the Office of Human Rights (OHR) and Commission on Human Rights (CHR) to investigate claims and increase public awareness of the D. C. Human Rights Act of 1977 (DCHRA).
20. Pass Bill 20-0142, "JaParker Deoni Jones Birth Certificate Equality Amendment Act of 2013," to allow for the issuance of new birth certificates for individuals who undergo treatment related to gender transition; end the requirement to publish notice of a name change in the newspaper; and allow issuance of new birth certificates via administrative process instead of a court order.
21. Ensure enforcement of LGBT nondiscrimination policies in District homeless shelters and transitional housing.
22. Ensure that all health insurance policies sold and used in DC cover the full spectrum of transgender health care needs.
23. Avoid honoring or appointing bigots.
24. Give grantmaking authority to the Office of GLBT Affairs.
25. Repeal the Armstrong Amendment.
26. Oppose public funding of private school vouchers.
27. Pass Bill 20-0051, "LGBTQ Homeless Youth Reform Act of 2013."
28. Continue to include sexual orientation on the Youth Risk Behavior Survey, add the new CDC-approved gender expression question, and release fact sheets that report the LGBT data.
29. Enforce the anti-bullying law in all D.C. public and charter schools.
30. Implement a comprehensive health education curriculum that meets the Health Standards and expand condom distribution throughout D.C. public schools.
31. Ensure equal Medicaid spousal impoverishment protections for same-sex partners.
32. Fight abuse of the regulatory process by people who repeatedly file baseless complaints.
33. Eliminate legal standing for ad hoc protest groups and citizens associations in liquor licensing cases, to permit input by all community stakeholders via the great weight already accorded Advisory Neighborhood Commissions.
34. Resist demagoguery against legitimate adult entertainment establishments.
35. Develop alternatives to incarceration for marginalized citizens for survival sex.
36. Increase the scope of job creation programs for transgender residents.

# AGENDA: 2013

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## 2. Marriage and Family

### 2.1 Preserving Civil Marriage Equality

Three years after D.C.'s enactment of civil marriage equality, President Obama made equality a centerpiece of his second inaugural address: "We, the people, declare today that the most evident of truths – that all of us are created equal – is the star that guides us still; just as it guided our forebears through Seneca Falls, and Selma, and Stonewall.... Our journey is not complete until our gay brothers and sisters are treated like anyone else under the law – for if we are truly created equal, then surely the love we commit to one another must be equal as well."<sup>1</sup>

D.C. was the first majority-black jurisdiction in the United States to enact civil marriage equality. The seeds for victory were sown and cultivated over decades, as a GLAA timeline shows.<sup>2</sup> LGBT people have been part of Washington's civic life since the dawn of Home Rule. The fight for marriage stirred a lot of people to action, but the crucial trust among key coalition partners was built over time in collaborations on many issues.

The passage of the Marriage Equality Act and its success in court vindicates GLAA's careful incremental strategy and is a tribute to our community's broad-based coalition effort. It was not a victory merely for the privileged or for one isolated issue. The many legal protections of marriage are if anything more vital for the poor than for the rich and well connected, and are integral with issues from health and education to housing, employment, and emergency services.

We must remain vigilant, notwithstanding the abject failure of anti-gay candidates since the District's enactment of marriage equality. Our broad-based coalition must continue its winning formula, including strong leadership from the African American and faith communities; consulting our allies and counterparts across the country; coordinating with Congresswoman Eleanor Holmes Norton; and maintaining relationships with public officials, opinion leaders, and the general public.

GLAA opposes any attempt from any source to ban same-sex marriage. Multiple proposed voter initiatives against marriage equality were blocked by the D.C. Board of Elections and Ethics and in several courts including the Supreme Court of the United States. Such measures would have authorized discrimination prohibited by DCHRA. We are proud of GLAA's role in passing legislation in 1979 barring discriminatory ballot measures. We expect all elected officials in our city to oppose such initiatives, even as we celebrate D.C. voters' history of electing gay-affirming candidates.

### 2.2 Domestic Partnership

GLAA was instrumental in codifying D.C.'s domestic partners law, the Health Care Benefits Expansion Act of 1992, which Congress finally allowed the District to implement in 2002. GLAA's incremental approach led to passage of additional enhancing laws which by 2009 resulted in registered domestic partners being granted virtually all of the rights and responsibilities of marriage, and in greater protections for the children of domestic partners.<sup>3,4</sup>

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<sup>1</sup> Inaugural Address, President Barack Obama, January 21, 2013, <http://tinyurl.com/aawslvf>

<sup>2</sup> "A Timeline on Marriage Equality in D.C.," Gay and Lesbian Activists Alliance, March 31, 2010, <http://tinyurl.com/czpho79>

<sup>3</sup> Rights and Responsibilities of Domestic Partners in the District of Columbia, <http://tinyurl.com/dpindc>

# AGENDA: 2013

---

GLAA opposes sunseting the domestic partnership law. Marriage is not an option for some domestic partners, such as a single parent and her own parent who are raising the grandchildren together (an example of a family structure not built around a romantic relationship). Any change to D.C.'s domestic partnership law must account for couples registered as domestic partners in other states; they are currently recognized as domestic partners in D.C., and abolishing that would leave their relationships without any protections. We oppose removing protections from any families that now enjoy them. Further changes should be about protecting more of our city's diverse families, not using them as pawns in our ongoing struggle with congressional demagogues.

## 2.3 Surrogacy Law

Surrogacy is a form of assisted reproduction in which the surrogate mother is either the biological contributor of the egg (traditional) or not (gestational). Only the District and three states explicitly prohibit all surrogacy agreements.<sup>5</sup> A modern law is needed to protect the rights of surrogate mother, parents, and child; establish criteria for the health of egg and sperm donors and surrogate; and provide for licensing of surrogacy agencies.<sup>6</sup>

Surrogacy contracts are currently criminal in the District and punishable by a fine of up to \$10,000.00, jail for up to one year, or both.<sup>7</sup> Having a child through mutual agreement by all parties should not be criminal or forced underground without legal protections. We thank Councilmember David Catania for introducing the "Surrogacy Parenting Agreement Act of 2013."<sup>8</sup> We have consulted with legal experts and Judiciary Chairman Tommy Wells, and look forward to working with them to ensure a comprehensive final bill.

## 2.4 Marriage Officiants

D.C. law requires that for every marriage to be official, there must be a wedding ceremony. The law is not concerned with how the ceremony is conducted or what words are spoken. The law only requires that the certificate be signed by the couple, any witness, and a court-certified officiant. Only judges and authorized clergy may be officiants.

Judges hold civil ceremonies only in the courthouse, but this shouldn't be the only non-religious option. Requiring the officiant to be a religious figure serves no government interest. Many couples will seek a church wedding and a religious leader to officiate and be comfortable with the current law. However, many couples prefer to have a non-religious wedding and to have a friend or other non-religious person as their officiant.

Recent legislation to allow notary publics to officiate fails to meet the need for anyone to be an officiant because of the limitations on notaries.<sup>9</sup>

GLAA advocates changing the marriage officiant law either to eliminate the ceremony requirement or to create a process to allow anyone to be an officiant on a one-time or ongoing basis.

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<sup>4</sup> "Frequently Asked Questions About Domestic Partnership in Washington, DC," Office of Gay, Lesbian, Bisexual and Transgender Affairs, <http://tinyurl.com/acqs349>

<sup>5</sup> "Surrogacy Laws by State," <http://www.allaboutsurrrogacy.com/surrrogacylaws.htm>

<sup>6</sup> "Overview of the Surrogacy Process," Human Rights Campaign, <http://tinyurl.com/cqragrq>

<sup>7</sup> D.C. Code § 16-401 and § 16-402

<sup>8</sup> Surrogacy Parenting Agreement Act of 2013, Bill 20-0032, <http://tinyurl.com/aay8ymn>

<sup>9</sup> Testimony on Marriage Officiant Amendment Act of 2010, Bob Summersgill, October 14, 2010, <http://tinyurl.com/cl4lekk>

# AGENDA: 2013

## 3. Public Health

### 3.1 HIV and AIDS

DOH reports, "The District continues to experience a high burden of HIV/AIDS and there are also high rates of STDs, hepatitis and TB."<sup>10</sup> "The number of newly diagnosed AIDS cases decreased from 653 in 2005 to 420 at the end of 2009, most likely due to increased testing efforts and earlier diagnosis and entry into care."<sup>11</sup> HIV disproportionately infects men who have sex with men (MSM), blacks, black women, and residents over 40 years of age.<sup>12</sup> The District ranks sixth among US cities and counties for Chlamydia,<sup>13</sup> fifth for gonorrhea,<sup>14</sup> and 13th for syphilis.<sup>15</sup>

Government leadership and community participation are essential to improving the District's response to AIDS. The various planning bodies – including the HIV Prevention Community Planning Group, Regional Health Services Planning Council, and the Mayor's Task Force on HIV/AIDS – should include community members who are not board members, employees, or consultants of groups receiving funds, while existing conflict-of-interest provisions (such as in the Ryan White CARE Act) should be enforced.

We congratulate the Department of Corrections (DOC) for the voluntary HIV testing program at D.C. Jail, which includes counseling and treatment. This program has been called "a CDC model for health care" by Councilmember David A. Catania,<sup>16</sup> and has been recognized by the American Correctional Association.

#### 3.1.1 Reforms at HIV/AIDS, Hepatitis, STD, and TB Administration

The DC Appleseed Center in 2005 reported many problems at what is now HAHSTA. Several of its recommendations were implemented, including reform of the handling of epidemiologic data; a citywide HIV testing campaign; and a citywide condom distribution program. DC Appleseed states that additional changes are needed in "HIV prevention among drug users; HIV prevention education in DCPS; condom distribution; HIV/AIDS surveillance; and mental health services related to HIV/AIDS."<sup>17,18,19</sup>

#### 3.1.2 Testing for Sexually Transmitted Diseases

Treating HIV differently from other infectious diseases has helped to perpetuate the stigma and contributed to its spread. 25% of people with HIV don't inform their partners because they don't know. HAHSTA is leading an effort to ensure that HIV testing is standard in all D.C. run health facilities, and encouraged in private facilities. The test should be covered in standard care consent forms. HAHSTA should maintain anonymous testing sites and educate residents on the difference between confidential and anonymous testing.

<sup>10</sup> "HIV/AIDS, Hepatitis, STD and TB Annual Report 2010," D.C. Department of Health, p. xii, <http://tinyurl.com/awc32wg>

<sup>11</sup> *Ibid.*, p. 25.

<sup>12</sup> *Ibid.*, pp. 2-5.

<sup>13</sup> *Ibid.*, p. 44.

<sup>14</sup> *Ibid.*, p. 45.

<sup>15</sup> *Ibid.*, p. 51.

<sup>16</sup> "D.C. Jail HIV Testing Spurs Debate Between Barry, Catania," News Channel 8, September 21, 2009

<sup>17</sup> "HIV/AIDS in the Nation's Capital," DC Appleseed Center, August 2005, <http://www.dcappleseed.org/project/hiv-aids>

<sup>18</sup> "HIV/AIDS in the Nation's Capital," Report Card No. 6, October 2009 to February 2011, DC Appleseed Center, <http://tinyurl.com/swxhc7m>

<sup>19</sup> "HIV/AIDS in the Nation's Capital," Report Card No. 7, March 2011 to July 2012, DC Appleseed Center, <http://tinyurl.com/awkz3h7>

# AGENDA: 2013

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### 3.1.3 Post-Exposure Prophylaxis

PEP for HIV should be provided at all D.C. emergency rooms, urgent care centers and health clinics. Its availability should be publicized and included in student health classes. PEP must be started within 72 hours after exposure to be effective. Studies in animals have shown PEP to be up to 100% effective if begun within 24 hours.

### 3.1.4 HIV Prevention

- a. **HIV Prevention Programs for Overlooked Populations:** With HIV infection at epidemic levels, HAHSTA's prevention efforts must reach everyone in the city, including overlooked populations such as seniors and the deaf and hard of hearing. Programs meant for all ages are not effective with seniors, many of whom believe HIV cannot affect them. HAHSTA and the Office on Aging should tailor prevention programs to a variety of at-risk groups, and ensure ready access to safer-sex materials.
- b. **Clean Needle Exchange:** Syringe exchange programs (SEPs) help prevent blood-borne disease without promoting increased drug use.<sup>20</sup> Between 2005 and 2009, "The number of [HIV/AIDS] cases due to injection drug use has decreased by 62% since 2005."<sup>21</sup> The District should continue to defend its Needle Exchange Program, authorized by D.C. Municipal Code 48-1103.01.<sup>22</sup>
- c. **Condom Distribution:** The use of condoms is the safest and most effective prevention method for reducing HIV transmission. Condoms and water-based lubricant need to be widely and consistently available. HAHSTA's FY10 Performance Plan stated its intention of distributing 3 million condoms.<sup>23</sup> These efforts must be continued and monitored.
- d. **Oppose Criminal Penalties for HIV Transmission:** Criminal penalties are no answer to health issues. Criminalizing knowing HIV transmission would harm HIV testing and prevention efforts by driving activity underground, encouraging anonymous sex, and increasing HIV stigma. HIV is a public health issue and needs to be treated as such.

### 3.1.5 Repeal HIV Testing of Certain Criminal Offenders Act

D.C. criminal code mandates involuntary HIV testing, and violating the medical privacy of people convicted of sexual assault by sharing the results with the victim. This adds to AIDS panic and frustrates efforts to reduce HIV transition, while doing nothing for the victim's health.

The original HIV Testing of Certain Criminal Offenders Act of 1995 legislation was designed to let a sexual assault victim know as early as possible if his or her assailant is infected with HIV, so that the victim could get treatment sooner or be relieved of that particular worry. We now have the technology to determine if a person has been infected, and treatment to prevent HIV from taking hold. Medical advances have brought rapid anti-body testing and viral load tests; and made HIV a long-term,

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<sup>20</sup> "Evidence-Based Findings on the Efficacy of Syringe Exchange Programs: An Analysis of the Scientific Research Completed Since April 1998," David Satcher, MD, U.S. Department of Health and Human Services, March 17, 2000, <http://tinyurl.com/bchotkq>

<sup>21</sup> "HIV/AIDS, Hepatitis, STD and TB Annual Report 2010," D.C. Department of Health, P. 10, <http://tinyurl.com/awc32wg>

<sup>22</sup> Policies and Procedures Manual, District of Columbia Needle Exchange Programs, D.C. Department of Health, May 2009, <http://tinyurl.com/aqk5xsz>

<sup>23</sup> FY 2010 Performance Plan, D.C. Department of Health, p. 17

# AGENDA: 2013

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manageable disease. Post-exposure prophylactic drug regimens can prevent HIV disease if taken within days after infection.

The law makes an unstated and misguided presumption that the victim was HIV negative before the assault. An estimated 1 in 4 people in the U.S. with HIV are unaware of their status and 5% of people in D.C. are infected with HIV. The victim needs information on what is in his or her own body, not what is in the assailant's body. The appropriate response to help victims is to provide free post-exposure prophylactic drugs, counseling, and viral-load testing until it is clear that the patient either has not been infected, or if infected, started on a regular treatment program. Morning-after pregnancy prevention drugs and other appropriate interventions should also be available in addition to counseling and follow up.

The 1995 legislation singles out HIV disease for special consideration, unlike any other communicable disease. Hepatitis C is transmitted in the same ways, has less effective treatments, and is quite deadly, but the lack of panic causes it to be treated as a normal medical problem. HIV should be handled similarly. We need a medically sound policy, not AIDS panic.

GLAA supports the repeal of § 22-3901 through § 22-3903, and § 16-2315(f) to end involuntary HIV testing; end the disclosure of medical tests; reduce the stigma associated with HIV; and help reduce HIV transmission.<sup>24</sup>

## 3.2 Health Data Collection

Several national health surveys have shown that LGBT residents have greater health disparities than the general population. The District of Columbia relies for data collection primarily on the Behavioral Risk Factor Surveillance System<sup>25</sup> and a CDC-based survey of men who have sex with men. In 2010, the Mayor's Office of GLBT Affairs released the first LGB health report.<sup>26</sup> This included information about some health disparities but made no reference to transgender health, because of the lack of transgender data. DOH should continue to improve its health surveillance activities to be transgender inclusive, and should be required to publish an annual LGBT health report.

Improved data collection should also demonstrate the need for adequate funding for LGBT health issues. For example, the 2010 LGB health report showed higher levels of smoking and alcohol consumption by LGB residents. Although DOH has set aside some LGBT-specific tobacco funding, there is little or no targeted substance abuse funding. To ensure proper funding of LGBT health initiatives, DOH should include sexual orientation and gender identity and expression as specific risk factors or work with the Mayor's Office of GLBT Affairs to ensure distribution of intercity funds as grants to LGBT health organizations.

## 3.3 Cultural Competency for Service Providers

Although the District of Columbia has excellent anti-discrimination laws on the books, there is a great need for cultural competency training for health and social service providers. These include agencies

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<sup>24</sup> Testimony on Criminal Code Amendments Act of 2010, Bob Summersgill, September 27, 2010, <http://tinyurl.com/6nagv3n>

<sup>25</sup> Behavioral Risk Factor Surveillance System, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, <http://www.cdc.gov/brfss/>

<sup>26</sup> "A Report of Lesbian, Gay and Bisexual Health in the District of Columbia," Mayor's Office of GLBT Affairs, June 30, 2010, <http://tinyurl.com/28j222p>

# AGENDA: 2013

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and social workers in the adoption and foster care system and senior-service network, case managers in the mental health delivery system, medical providers, home-care providers, substance abuse counselors, and employment agencies.

## 3.4 Medical Marijuana

Licensed medical marijuana cultivation centers and dispensaries are finally set to open in early 2013, three years after passage of the Legalization of Marijuana for Medical Treatment Initiative Amendment Act of 2010, and fourteen years after District voters approved Initiative 59 by a 69% majority. The first cultivation center received a certificate of occupancy in December 2012.<sup>27</sup> We commend activist Wayne Turner and other healthcare advocates for seeing this through.

We remain confident that, by employing a pharmacy model, the District's program can serve as an example for the nation. With safe and affordable access to medical-grade marijuana, seriously ill patients will no longer have to turn to open-air drug markets and contaminated supplies.

Once the cultivation centers and dispensaries are operational, the D.C. Council should revisit the issue of home cultivation, which was provided for in the original 1998 ballot Initiative 59 but is not allowed under the current program.

D.C.'s tightly controlled medical marijuana program has not been the subject of warning letters like those sent by U.S. Attorneys in other jurisdictions. U.S. Attorney for the District of Columbia Ronald C. Machen has given no suggestion that D.C.'s program will be targeted; we urge his continued restraint and ask that he respect the patient protections provided under District law. The District's law withstood congressional review, something no state dispensary law had to do.

Uninformed opposition has centered in Ward 5. As Martin Austermuhle wrote at *DCist*, there was no persecution involved – "rather, it's one of the few parts of the city where zoning regulations and real estate prices are exactly what the budding entrepreneurs want, need and are required to have."<sup>28</sup> Also troubling is Councilmember Yvette Alexander's successful effort to block a cultivation center in Ward 7 that met all zoning and other requirements in the law. Responsible leaders should reject the falsehoods and stigma directed against this life-saving and carefully controlled program.

## 3.5 Women's Health Needs

Lesbians are at particular risk of not receiving early diagnoses of breast and cervical cancers, based on lack of access to and sensitivity of medical providers to lesbian sexuality issues. The city must ensure that its health centers are staffed with people sensitive to such issues.

## 3.6 Transgender Health Needs

Transgender people are disproportionately poor, and prostitution as a means of survival is a serious HIV transmission vector. The discrimination faced by transgender people limits their access and willingness to seek medical care. We welcome the District's commitment to collecting transgender data to overcome its absence in the District's above-referenced 2010

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<sup>27</sup> "After 14 Years of Waiting, Medical Marijuana is Mere Months Away for D.C. Patients," Martin Austermuhle, *DCist*, December 13, 2012, <http://tinyurl.com/astbcnh>

<sup>28</sup> "Thomas to Propose Ward 5 Cultivation Center Cap," Martin Austermuhle, *DCist*, November 11, 2011, <http://tinyurl.com/727sok8>

# AGENDA: 2013

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LGB health report. DC Trans Coalition (DCTC) documents other data sources.<sup>29</sup> Many people have told DCTC about difficulties accessing health care (not just trans-related care) if they do not have HIV.

All health insurance policies offered in DC should be free of trans exclusions (clauses limiting coverage such that trans health needs are not covered by health insurance policies). Public plans such as DC Alliance and Medicaid, DC government employee health plans, and plans offered by the fledgling Health Benefits Exchange should provide the full range of trans health treatments (inclusive of psychotherapy, hormone treatments, and surgeries, and anything else mentioned in the current World Professional Association for Transgender Health Standards of Care.<sup>30</sup> WPATH Standards of Care treatments should be determined "Medically Necessary" by Medical Directors of Medicaid and Alliance plan contractors. Employer-based health insurance plans of businesses operating in DC should cover all WPATH Standards of Care treatments.

## 3.7 Human Papillomavirus Vaccination

The District passed the Human Papillomavirus Vaccination and Reporting Act of 2007, and consequently D.C. has one of the best vaccination laws in the country. All girls, in grade 6, or newly enrolled, attending school must be vaccinated against HPV, the virus that causes most forms of cervical cancer. More than 70% of American adults contract HPV, and for most it has no symptoms. HPV is also the cause of most forms of anal and penile cancers; the prevalence of these cancers is 17% greater among men who have sex with men.<sup>31</sup>

One provision in that law suggested by GLAA is a requirement that the HPV vaccination program be extended to boys in accordance with CDC guidelines.<sup>32</sup> On October 25, 2011, the CDC Advisory Committee on Immunization Practices voted to extend routine vaccinations to males 11-12 years of age.<sup>33</sup>

DOH, through the Mayor, needs to issue new regulations as soon as feasible. We should work to ensure that all boys in the 6th grade and above receive this important vaccine as soon as possible. Vaccination would almost completely eradicate anal and penile cancers in that population, as well as removing a transmission vector for the virus from the community, which will help protect women.

## 3.8 Tobacco Prevention

According to the Campaign for Tobacco-Free Kids, roughly 15% of adults in Washington, D.C. smoke.<sup>34</sup> Unfortunately, the failure to include LGBT identity in many health surveys limits the data available on smoking rates in the LGBT community, both at the national level and in D.C. We do have some data. According to the American Lung Association's report, "Smoking Out a Deadly Threat," LGBT people

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<sup>29</sup> Reports and Research, DC Trans Coalition, <http://tinyurl.com/2wuy7lv>

<sup>30</sup> "Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7," World Professional Association for Transgender Health, 2011, <http://www.wpath.org/documents/IJT%20SOC,%20V7.pdf>

<sup>31</sup> "HPV and Men - Fact Sheet," Centers for Disease Control and Prevention, <http://tinyurl.com/6zu8sg>

<sup>32</sup> Testimony on HPV Vaccination and Reporting Act of 2007, Bob Summersgill, February 9, 2007, <http://tinyurl.com/bnrsmej>

<sup>33</sup> "Panel Endorses HPV Vaccine for Boys of 11," Gardiner Harris, *The New York Times*, October 25, 2011, <http://tinyurl.com/3zrfyey>

<sup>34</sup> "The Toll of Tobacco in Washington, D.C.," Campaign for Tobacco-Free Kids, December 5, 2012, <http://tinyurl.com/d6javep>

# AGENDA: 2013

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smoke at higher rates than the general population.<sup>35</sup> According to the *Mortality and Morbidity Weekly Report*, LGBT youth smoke at higher rates than their peers.<sup>36</sup>

LGBT people, like the general population, tend to start smoking at an early rate. LGBT smokers often experience higher levels of social stress or the desire to fit in, which can lead to experimenting with tobacco.

Each year, the tobacco industry spends nearly \$13 billion to market their products. In order to effectively counter these messages and reduce smoking rates, the CDC recommends that the D.C. Government commit \$10.5 million for tobacco prevention. We could follow other states and raise cigarette taxes to generate the necessary revenue. Higher cigarette prices encourage attempts by adults to quit, depress the number of youth who regularly smoke, and cut the rates of youth who try cigarettes.<sup>37</sup>

During the course of their lives, cigarette smokers are absent from work more often, are more prone to illness, and are at higher risk for life-threatening illnesses like cancer, heart disease, and stroke.<sup>38</sup> Money given to tobacco prevention programs can increase education for current and prospective smokers, provide resources to help people quit, and help create a foundation for a healthier, more productive lifestyle.

## 3.9 Tuberculosis, Hepatitis and Substance Abuse

Drug-resistant tuberculosis (TB) and Hepatitis B and C must be aggressively fought to keep them from becoming entrenched among people with HIV/AIDS and their caregivers. People with HIV are 40 times more likely to develop active, infectious tuberculosis if exposed to the contagion than are people with healthy immune systems.<sup>39</sup> The District should use federal matching funds for the limited Medicaid benefit for people infected with TB. Substance abuse ranging from alcohol to crystal meth contributes to the spread of HIV and other diseases. GLAA supports continued funding of targeted substance abuse treatment.

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<sup>35</sup> "Smoking Out a Deadly Threat: Tobacco Use in the LGBT Community," American Lung Association, <http://tinyurl.com/34gv6pn>

<sup>36</sup> *Morbidity and Mortality Weekly Report*, Centers for Disease Control and Prevention, June 6, 2011, <http://tinyurl.com/cwr4m4b>

<sup>37</sup> "Increasing Tobacco Taxes Results in Lower Health Care Costs," Indiana Tobacco Prevention and Cessation, <http://tinyurl.com/cuczqnn>

<sup>38</sup> "Health Effects of Cigarette Smoking," Centers for Disease Control and Prevention, <http://tinyurl.com/lblldw>

<sup>39</sup> "Reported Tuberculosis Cases and Selected Case Characteristics, District of Columbia, 2005-2008," D.C. Department of Health, September 2009

# AGENDA: 2013

## 4. Public Safety and Judiciary

### 4.1 Gay and Lesbian Liaison Unit and Police Response to Hate Crimes

The Metropolitan Police Department's Gay and Lesbian Liaison Unit (GLLU), established in 2000, was the first such unit in the country to combine community relations with full policing powers. The strong support for GLLU across the LGBT community shows how far we have come since the police entrapment of gay men and the raids of gay bars in the 1950s and 60s – and after the Halloween riot by police in 1991. This good will must not be squandered. We continue to support a GLLU presence in all patrol districts, which is enhanced by the GLLU affiliate officer program. That does not eliminate the need for a robust core unit with seven officers and a full-time sergeant.

Whether hate crime victims are lesbians in Columbia Heights<sup>40,41</sup> or transgender women in Southeast,<sup>42</sup> we cannot accept more incidents in which police respond with indifference to an anti-LGBT assault. This cannot be resolved by a few hours' training for GLLU affiliate officers. It is not enough to declare officer bias unacceptable. Unpunished discrimination sends the message that MPD's fine-sounding policy can be disregarded with impunity.

We commend Gays and Lesbians Opposing Violence (GLOV),<sup>43</sup> DC Trans Coalition (DCTC),<sup>44</sup> and Rainbow Response Coalition<sup>45</sup> for their work to translate enlightened MPD policies into reality on the street. D.C. remains a dangerous place for transgender people in all walks of life; overcoming this will require police and others to stop viewing trans citizens primarily as suspects.

### 4.2 Police and Court Attitudes Toward Transgender People

Police Chief Cathy Lanier in October 2007 issued a General Order, "Handling Interactions with Transgender Individuals,"<sup>46</sup> to insure professional and respectful interaction between MPD personnel and transgender people. But subsequent incidents<sup>47</sup> have shown that the message has not sunk in with the rank and file. In one frightening case, off-duty Officer Kenneth Furr shot up a car containing five people including three transgender women after one of them rebuffed his sexual overtures.<sup>48</sup> We appreciated MPD's rapid response; but the recent suspended sentence for Furr,<sup>49</sup> as Jason Terry of DCTC said, "is the product of a legal system that constantly devalues trans people's lives."<sup>50</sup> This is an intolerable situation that must be addressed by city leaders.

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<sup>40</sup> "5 lesbians attacked; police refuse to take report," Lou Chibbaro Jr., *Washington Blade*, August 5, 2011, <http://tinyurl.com/3ep6ys8>

<sup>41</sup> "7 officers could be fired over anti-lesbian attack," Lou Chibbaro Jr., *Washington Blade*, August 8, 2011, <http://tinyurl.com/3oe4tsf>

<sup>42</sup> "Victim, activists upset over plea bargain in transgender shooting case," Lou Chibbaro Jr., *Washington Blade*, September 30, 2011, <http://tinyurl.com/3ou4pa7>

<sup>43</sup> <http://www.glovdc.org/>

<sup>44</sup> <http://www.dctranscoalition.org/>

<sup>45</sup> <http://www.rainbowresponse.org/>

<sup>46</sup> MPD General Order 501.02, "Handling Interactions with Transgender Individuals," October 15, 2007, <http://tinyurl.com/arkngwb>

<sup>47</sup> "D.C. police struggle over disclosure of transgender murder," Lou Chibbaro Jr., *Washington Blade*, July 21, 2011, <http://tinyurl.com/3vd6705>

<sup>48</sup> "Probable cause found that off-duty cop fired gun at trans women," Lou Chibbaro Jr., *Washington Blade*, September 5, 2011, <http://tinyurl.com/3nrqf0>

<sup>49</sup> "Activists Blast Furr Sentence," John Riley, *Metro Weekly*, January 11, 2013, <http://tinyurl.com/bzpl5gb>

<sup>50</sup> "Sentencing of MPD Officer Furr Devalues Trans Lives," DC Trans Coalition, January 10, 2013, <http://wp.me/pxSsl-ql>

# AGENDA: 2013

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## 4.3 Anti-Transgender Profiling by MPD

MPD's use of Prostitution Free Zones facilitates discriminatory profiling of transgender people by police. American Civil Liberties Union of the Nation's Capital has questioned the constitutionality of PFZs.<sup>51,52</sup>

Jason A. Terry testified for DC Trans Coalition (DCTC) on November 2, 2011, "Profiling trans people as sex workers is indeed such a prevalent occurrence that MPD's General Order 501.02 on interacting with trans people explicitly states 'Members shall not solely construe gender expression or presentation as reasonable suspicion or prima facie evidence that an individual is or has engaged in prostitution or any other crime.' Yet Prostitution Free Zones allow for exactly that suspicion to be made, and it almost always is. In effect, trans women are banished from given areas of the city at the police chief's discretion. Many of this year's violent attacks on trans women have happened in or near these profiling zones. Thus by pushing trans women to less safe areas as a 'crime control' tactic, this Council has effectively sanctioned their deaths."<sup>53</sup>

PFZs are highly expensive and constitutionally questionable. We know that police have a job to do, but they must do it in a constitutional manner. We urge councilmembers to repeal the PFZ law.

## 4.4 MPD Diversity Training and Discipline

MPD must continue its community diversity and sensitivity training for new recruits and lateral transfers, and expand it to veteran officers who set the everyday climate for new officers. The use of qualified LGBT trainers by the Police Academy brings a dose of reality, but must be accompanied by a clear message to all officers that homophobia and transphobia will not be tolerated on the force. The need for serious attention to disciplinary matters by the MPD brass is underscored when dismissed officers have to be rehired due to managers' failure to meet certain deadlines.<sup>54</sup> Community trainers have been provided by GLOV, Sexual Minority Youth Assistance League (SMYAL),<sup>55</sup> Rainbow Response Coalition, Break the Cycle, and DCTC.<sup>56</sup> Except for SMYAL and Break the Cycle, the trainers are volunteers. The city should not rely solely upon limited volunteer resources for this needed training. Existing MPD funds could be reprogrammed. Contracts or direct grants could be used for qualified trainers who use community-developed curricula. Alternatively, the Office of GLBT Affairs could administer the training funds.

## 4.5 Intimate Partner Violence

Intimate partner violence occurs in an estimated 25% - 33% of LGBT relationships, the same as in heterosexual relationships. Statistically, this means there are an estimated 10,000 LGBT survivors in the District. Based on reported information, over 75% of all GLLU cases involve intimate partner violence. However, data related to such incidents is not consistently collected. Without this data, we do not know the true prevalence of these crimes.

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<sup>51</sup> Testimony on Bill 16-247, American Civil Liberties Union Of the Nation's Capital, June 30, 2005, <http://tinyurl.com/7fzewpy>

<sup>52</sup> "Transgender activists say D.C. prostitution bill will lead to profiling," Joshua Lynsen, *Washington Blade*, March 29, 2006, <http://tinyurl.com/ccjkdqa>

<sup>53</sup> Testimony on Hate Crimes and Police Response, Jason A. Terry, DC Trans Coalition, November 2, 2011, <http://tinyurl.com/ckszgu4>

<sup>54</sup> "17 Officers Fired for Misconduct Reinstated," *The Washington Post*, May 20, 2008, <http://tinyurl.com/z3mq98gc>

<sup>55</sup> <http://www.smyal.org/>

<sup>56</sup> Police training materials, DC Trans Coalition, <http://tinyurl.com/chq56gu>

# AGENDA: 2013

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LGBT survivors of intimate partner violence face many barriers to accessing services. We must educate first responders and service providers to the unique dynamics of LGBT domestic violence and aggressively advocate for resources to support survivors. Rainbow Response Coalition in collaboration with other local LGBT groups developed and delivers trainings to MPD and Court Services and Offender Supervision Agency (CSOSA). The trainings need to be expanded so that the entire MPD force is culturally competent to handle cases of LGBT partner violence.

## 4.6 Separating Local Policing from Immigration Enforcement

ACLU of the Nation's Capital notes, "It has been a long-standing policy for years in the District of Columbia that there is a bright line between immigration and enforcement and local police."<sup>57</sup> The Secure Communities program of U.S. Immigration and Customs Enforcement (ICE) threatens this, because fingerprints routinely shared with the FBI by local police are now shared with ICE to check against its immigration databases.<sup>58</sup>

The prison-like conditions endured by detainees in America's immigration detention system are documented by the national ACLU,<sup>59</sup> which has filed suit.<sup>60</sup> Physicians for Human Rights reports on the challenges of providing professional health care to detainees.<sup>61</sup> LGBT refugees are hit especially hard; *LGBT Asylum News* reports, "When [a transgender woman detained in California] asked why she could have recreation access for only a couple of hours she was abused by a guard, told it was to 'teach her not to be transgender.' ... Transferred to a jail she suffered further mistreatment and discrimination, including denial of access to a doctor."<sup>62,63</sup>

We thank the D.C. Council for passing the Immigration Detainer Compliance Amendment Act of 2012, which limits the circumstances under which the District will comply with an immigration detainer request from U.S. Immigration and Customs Enforcement.<sup>64</sup>

## 4.7 Office of the U.S. Attorney

The Office of the U.S. Attorney prosecutes crimes in the District but is not accountable to District officials. This is an ongoing slap at D.C. taxpayers and Home Rule principles. The U.S. Attorney fails to provide reports to MPD or other District officials on cases, including anti-LGBT hate crimes, which it decides not to prosecute. The same concern applies to information on other aspects of the prosecution process, including reducing charges prior to indictment, reducing charges at indictment, reducing charges at a plea bargain, etc. Greater transparency could be provided while preserving confidentiality as needed. MPD and Mayor Gray must press the U.S. Department of Justice to end this denial to the District of information affecting its citizens' public safety.

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<sup>57</sup> "Mayor, D.C. Council Take Bold Steps To Secure D.C.'s Immigrant Community," ACLU of the Nation's Capital, November 21, 2011, <http://tinyurl.com/7wxmsmy>

<sup>58</sup> Secure Communities, U.S. Immigration and Customs Enforcement, [http://www.ice.gov/secure\\_communities/](http://www.ice.gov/secure_communities/)

<sup>59</sup> "Sexual assault and abuse rampant in America's immigration detention centers," Catherine Traywick, *LGBT Asylum News*, October 31, 2010, <http://tinyurl.com/7kjrj9b>

<sup>60</sup> "The appalling treatment of a trans asylum seeker in US detention," Paul Canning, *LGBT Asylum News*, December 11, 2011, <http://tinyurl.com/cr7ysqb>

<sup>61</sup> "Report: US immigration detention can equal abuse, poor health care, sexual assault and death," *LGBT Asylum News*, April 8, 2011, <http://tinyurl.com/c2rbmfj>

<sup>62</sup> "In US, violent, sexual abuse of LGBT refugee detainees draws too little attention," Paul Canning, *LGBT Asylum News*, April 16, 2011, <http://tinyurl.com/3mvrwoz>

<sup>63</sup> Appeal to end abuse of LGBT immigrants in detention, National Immigrant Justice Center, <http://tinyurl.com/84a7jkc>

<sup>64</sup> Immigration Detainer Compliance Amendment Act of 2012, Act 19-0442, <http://tinyurl.com/axrstb2>

# AGENDA: 2013

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## 4.8 Office of Police Complaints

The independent Office of Police Complaints (OPC), which GLAA helped create, employs the best practices of citizen oversight of law enforcement, with the goal of improving public confidence in the police. OPC Executive Director Philip K. Eure and his staff have shown expertise, integrity, and a commitment to fairness for all – not just those who file complaints, but those against whom they are filed, and the wider community from which both are drawn.<sup>65</sup>

## 4.9 Fire and Emergency Medical Services Department

Credit goes to Chief Kenneth B. Ellerbe for continuing reforms at the Fire and Emergency Medical Services Department (FEMS), and for agreeing to let DCTC review trans-related diversity training materials. Chief Ellerbe attended the District's Transgender Day of Remembrance event on November 20, 2012 to apologize on behalf of the Department for the first responder who withdrew care in 1995 from Tyra Hunter, a gravely wounded transgender woman who subsequently died. (That awful incident occurred fifteen years before Ellerbe took charge at FEMS.) Ellerbe's commitment to respectful service to transgender citizens promises a repaired relationship and improved cooperation between the Department and the community.<sup>66</sup>

## 4.10 Department of Corrections

The D.C. Government website states, "The mission of the Department of Corrections is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates...." This contrasts with the discrimination faced by transgender inmates, who are often housed solely based on their genitalia, denied appropriate health care, sexually assaulted, abusively strip-searched, and placed in protective custody that amounts to punishing the victim.<sup>67</sup>

DOC issued a revised policy on classifying and housing transgender inmates in 2009.<sup>68</sup> More steps are needed. DOC should provide greater transparency on appointments to its transgender housing committee and transgender oversight committee. We laud the efforts of the DC Trans Coalition, Just Detention International, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs to make our city obey its own laws. D.C.'s Human Rights Act is not a ceremonial resolution.

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<sup>65</sup> "Police Complaints Board and Office of Police Complaints Release Fiscal Year 2011 Annual Report," Office of Police Complaints, February 27, 2012, <http://tinyurl.com/bz9hvg5>

<sup>66</sup> "Gray, Ellerbe attend Transgender Day of Remembrance event," Michael K. Lavers, *Washington Blade*, November 23, 2012, <http://tinyurl.com/b6q7mso>

<sup>67</sup> "Jails," DC Trans Coalition, <http://tinyurl.com/73x5xan>

<sup>68</sup> Program Statement on Gender Classification and Housing, D.C. Department of Corrections, February 20, 2009, <http://tinyurl.com/bqlm4ee>

# AGENDA: 2013

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## 5. Human Rights

### 5.1 Office of Human Rights

The D. C. Human Rights Act of 1977 is one of the strongest human rights laws in the country, prohibiting discrimination based on a lengthy list of categories including sexual orientation, gender identity or expression, and genetic information. We must remain vigilant to ensure that this law is defended and enforced. Both Mayor Gray and his predecessor broke promises to appoint an OHR director with a professional background in human rights law, which would give an OHR director the expertise to verify the correctness of staff work and the confidence to stand up to other government officials. Future appointments should be based on qualifications. In the meantime, we commend the efforts of OHR Director Gustavo Velasquez to improve training and compliance.

### 5.2 Funding for Office of Human Rights and Commission on Human Rights

GLAA has long advocated sufficient budget and staffing levels to keep OHR's case backlog from growing and to reduce the average number of days it takes after the filing of a discrimination complaint to issue a finding of probable cause. We support a separate line item for the Commission on Human Rights.

### 5.3 Combating Transgender Discrimination

Anti-transgender discrimination is a continuing problem. Transgender youth are bullied and harassed in schools. Treatment of adults ranges from gawking curiosity to violence. DC Trans Coalition reported in July 2011, "The results of the roundtables held during phase one of our Needs Assessment project show the stark reality of trans people's lives in the District of Columbia: violence and abuse are widespread, fear is a regular part of trans community members' lives, and discrimination and harassment are far from uncommon."<sup>69</sup> Clearly, DCHRA protections are not enough. Proactive efforts are needed.

Public accommodations are a prime example. Municipal regulations require gender-neutral signage on single-occupancy restrooms. Yet a survey by DCTC revealed that 68 percent of respondents identifying as trans and/or gender non-conforming reported experiencing hostility and/or violence when attempting to use public restrooms in the District.<sup>70</sup> DCTC and the DC Center launched an effort to identify discriminatory establishments. We commend the Department of Consumer and Regulatory Affairs' Construction Codes Coordinating Board for its recent rulemaking that imposes a \$500 fine against businesses that violate the signage rule, though its emphasis will be on education rather than "strict issuing of fines."<sup>71</sup>

All employers in the District should be educated on how to treat transgender employees fairly and respectfully.

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<sup>69</sup> "DC Trans Needs Assessment, Summary Findings – Phase One," DC Trans Coalition, July 2011, <http://tinyurl.com/ccaic4b>

<sup>70</sup> "Our Survey Results," DC Trans Coalition, November 8, 2009, <http://tinyurl.com/3a4uhx8>

<sup>71</sup> "Gender neutral: D.C. threatens fines for mislabeled bathroom signs," Michael Neibauer, *Washington Business Journal*, January 24, 2013, <http://fb.me/zfT9aLg4N>

# AGENDA: 2013

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## 5.4 Changing Original Birth Certificate

People who undergo treatment related to gender transition – with or without surgery – deserve an original birth certificate that matches their gender identity, and not just an amendment.

The D.C. Code states:

*§ 7-217 (d) Upon receipt of a certified copy of an order of the Court indicating that the sex of an individual born in the District has changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by regulation.*

This section can be changed slightly and moved to § 7-210, "New Certificates of Birth," to allow a person to receive an original birth certificate; and the process should be changed so it is done administratively rather than by court order. Whether the birth certificate is recorded as new or amended makes no difference to anyone but the person seeking the change. Amending a birth certificate in most cases will help deter fraud, but no one goes through the lengthy and expensive gender transition process to commit fraud.

Twenty-one states currently allow for the issuance of new birth certificates under similar circumstances: California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Iowa, Louisiana, Massachusetts, Michigan, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, South Dakota, Utah, Vermont, and Virginia. Additionally, Indiana has no gender in their birth certificates. This would also be acceptable moving forward.

We endorse Bill 20-0142, "JaParker Deoni Jones Birth Certificate Equality Amendment Act of 2013."<sup>72</sup> Thanks to Councilmembers David Catania, David Grosso, Jack Evans, Mary Cheh, Kenyan McDuffie, Tommy Wells, and Chairman Phil Mendelson for co-introducing it, and to the remaining councilmembers for co-sponsoring it.<sup>73</sup>

## 5.5 Shelter Safety

Community members have complained of discrimination in homeless shelters from shelter staff, and victimization from other shelter clients. The D.C. government, Community Partnership for the Prevention of Homelessness, and shelter providers must ensure enforcement of LGBT nondiscrimination policies in District homeless shelters and transitional housing, provide LGBT sensitivity training to security guards as well as shelter staff, and ensure that all shelter clients are protected from victimization.

## 5.6 Affordable Housing

The District needs to build upon its ever-shrinking base of affordable housing stock. Low-income LGBT people need a variety of housing options. Low income LGBT people with HIV/AIDS should not have to suffer homelessness, as they are currently, because the D.C. government will not put muscle behind

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<sup>72</sup> "JaParker Deoni Jones Birth Certificate Equality Amendment Act of 2013," Bill 20-0142, <http://dcclims1.dccouncil.us/images/00001/20130220125735.pdf>

<sup>73</sup> "D.C. Council introduces bill to allow transgender residents to obtain new birth certificates," John Riley, *Metro Weekly*, February 19, 2013, <http://tinyurl.com/benax5s>

# AGENDA: 2013

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affordable housing efforts. The D.C. Council and the Mayor must ensure that the Housing Production Trust Fund, Permanent Supportive Housing, and Local Rent Supplement Program are all funded annually at adequate levels to meet the full needs of this population.

## 5.7 Honors for the Honorable

The District has no business issuing official proclamations and ceremonial resolutions to honor people and organizations openly hostile to the LGBT community. Officials must put procedures in place to prevent such slip-ups. Good works in other areas do not excuse discrimination or bias.

## 5.8 Grantmaking Authority for Office of GLBT Affairs

In order to create mechanisms for directing needed services to minority and at-risk populations, the Council should pass legislation giving the directors of the Office of GLBT Affairs and the Office of African Affairs the authority to issue grants to organizations serving the populations within their purview. This authority is already granted to other minority constituent offices. Once funding is found, such authority will facilitate the provision of services that the city does not otherwise fund.

## 5.9 Repeal the Armstrong Amendment

One of the most egregious violations of Home Rule was the Armstrong Amendment to single out sexual orientation for permissible discrimination by religiously affiliated schools. Congress directly enacted the changes to § 2-1402.41 of the District of Columbia Code in direct response to the successful lawsuit against Georgetown University in 1987. Every member of the D.C. Council supported the lawsuit to block the Armstrong Amendment from being imposed on the District, but ultimately lost.<sup>74</sup> The Armstrong Amendment is named for former Senator Bill Armstrong (R-CO). Senator Mark Udall (D-CO) now holds his seat.

The changes remain in effect, although no religiously affiliated educational institution in the District has invoked the Human Rights Act exemptions. GLAA has called for the D.C. Council to repeal these congressionally imposed provisions.

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<sup>74</sup> "Federal Intrusions and the Gay Community," Richard J. Rosendall, *Guild Practitioner*, October 1997, <http://tinyurl.com/77vb6gq>

# AGENDA: 2013

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## 6. Youth and Seniors

### 6.1 School Vouchers

Congress imposed a voucher program on the District in 2004, overriding District voters who had rejected vouchers 89% to 11% in a 1981 referendum. According to a June 2010 study by the National Center for Education Evaluation and Regional Assistance, "80 percent of the treatment group attended a faith-based school, with most of them (53 percent) attending the 15 participating Catholic parochial schools"<sup>75</sup> – schools where LGBT students, teachers and employees enjoy none of the protections of the DCHRA. Instead of diverting public funds to serve a small percentage of students, we should continue reforms in schools that are accountable to taxpayers. Unfortunately, several District officials who previously opposed vouchers have caved to Congress.

### 6.2 Transitional Housing for Homeless LGBT Youth

The Wanda Alston House for homeless LGBT youth, opened in 2008, is a milestone for Transgender Health Empowerment (THE), and a welcome advance for a population at heightened risk for substance abuse, STDs, suicide, and survival sex. The D.C. Department of Human Services and the Community Partnership for the Prevention of Homelessness made this possible, along with Covenant House Washington, the Sexual Minority Youth Assistance League (SMYAL), and the Latin American Youth Center. Alston House's transitional residents receive wraparound services like job training, substance abuse treatment, and counseling. But Alston House only has 18 beds, far short of the need. Services must be expanded to meet the needs of all at-risk LGBT youth.

We support Bill 20-0051, the LGBTQ Homeless Youth Reform Act of 2013, which was introduced by Councilmembers Cheh and Bowser and co-sponsored by nine of their colleagues.<sup>76</sup>

### 6.3 Youth Risk Behavior Survey

The D.C. Office of the State Superintendent of Education (OSSE) reported in 2010 that self-identified gay, lesbian, and bisexual students in D.C. public middle and high schools were three times likelier to attempt suicide. This and other disturbing data were extracted from the Youth Risk Behavior Survey (YRBS) conducted by OSSE in cooperation with the Centers for Disease Control and Prevention.<sup>77</sup> The survey found dramatically higher rates of cocaine and methamphetamine use among LGB youth. However, the city's low response rate in 2009 rendered the data unusable by CDC, revealing a need for a more serious commitment from OSSE.<sup>78</sup> YRBS should be expanded to include transgender students, who "are harassed more and ... are at higher risk than their non-transgender peers."<sup>79</sup> D.C. should adopt the optional gender expression question put forth by CDC.

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<sup>75</sup> "Evaluation of the DC Opportunity Scholarship Program: Final Report," June 2010, National Center for Education Evaluation and Regional Assistance, P. 18, <http://tinyurl.com/coo2k2s>

<sup>76</sup> "LGBTQ Homeless Youth Reform Act of 2013," Bill 20-0051, <http://dcclims1.dccouncil.us/images/00001/20130114123338.pdf>

<sup>77</sup> "Youth Risk Behavior Survey," D.C. Office of the State Superintendent of Education, 2009, referenced by The DC Center, <http://tinyurl.com/3h2l6jb>

<sup>78</sup> "CDC Says DC Youth Risk Behavior Survey Data Unusable," Adam Tenner, Metro Teen AIDS, March 2010, <http://tinyurl.com/3o4yasg>

<sup>79</sup> "Center Facts: LGBT Youth in the District of Columbia," [http://www.thedccenter.org/facts\\_youth.html](http://www.thedccenter.org/facts_youth.html)

# AGENDA: 2013

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The District launched a partnership with First Home Care in May 2009 "to assist students transitioning from restrictive education environments to District public schools."<sup>80</sup> More such initiatives are needed.

## 6.4 Anti-Bullying Law and DCPS Efforts

The D.C. Council last year passed an anti-bullying law, and D.C. Public Schools (DCPS) has pursued its own anti-bullying initiatives. Follow-through and enforcement are essential. Administrators, teachers and students should receive regular training through assemblies, skits, and role-playing. Violations that go unpunished will serve as evidence that once again the District's model policy is toothless. The DCPS pilot program to designate and train LGBT liaisons in 25 schools should be evaluated promptly to speed its expansion system-wide.

Recent news stories highlight the importance of public efforts to help at-risk teens. Members of a gay youth group called Check It, which had been described by police as a gang, denied being a gang at a town hall in October 2011 and said they organized in response to family ostracism and school bullying.<sup>81</sup> We appreciate MPD's efforts at mediation to resolve police-related issues with them, and were glad that the group's members were trained as entrepreneurs to launch a fashion line; but their stories underscore the importance of building support networks to help at-risk youth stay on a safe and constructive path.

## 6.5 Health Education

GLAA strongly supports DCPS Health Standards that include sexual orientation and gender identity as part of "the knowledge and skills that students need to maintain and improve their health and wellness, prevent disease, and reduce health-jeopardizing behaviors." The scientific consensus is what should be taught. The American Psychiatric Association and the American Psychological Association recognize homosexuality as a normal variant of human sexuality. It is essential to monitor and enforce compliance to ensure that teachers and principals do not disregard DCPS policy in favor of their own biases.

## 6.6 Gay-Straight Alliances

Gay-Straight Alliances (GSAs) are student-initiated organizations in schools. GSAs enrich a school's learning environment, help provide a safe and supportive climate for students, and foster tolerance among students. Teachers, administrators and public officials should encourage students to form GSAs and take action against officials who illegally interfere with GSAs in the public schools.

## 6.7 Condom Availability

The District's condom availability program for public school students, established in 1992, was designed to reduce the spread of HIV, other STDs and unwanted pregnancies. Condoms and other safer-sex materials should be available from DOH through school nurses, as well as available directly without an intermediary. Unfortunately, condoms are available sporadically and without uniform guidelines. Many public high schools don't provide condoms at all, and others impose restrictions that deter students from seeking or using them. This program needs to be revitalized.

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<sup>80</sup> "Mayor Fenty Announces Accomplishments, New Initiatives in Special Education," DCPS, October 1, 2009, <http://tinyurl.com/25w7h9w>

<sup>81</sup> "Gay 'gang' members speak at LGBT youth forum," Lou Chibbaro Jr., *Washington Blade*, October 26, 2011, <http://tinyurl.com/3t5myle>

# AGENDA: 2013

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## 6.8 Medicaid Spousal Impoverishment Protections

Because federal financial participation in D.C. Medicaid is subject to the Defense of Marriage Act (DOMA), D.C. Medicaid's long-term nursing home care program might deny full spousal impoverishment protections to same-sex spouses of nursing home residents.

The Centers for Medicare and Medicaid Services (CMS) sent a guidance letter<sup>82</sup> dated June 10, 2011 to State Medicaid Directors informing them that under existing law State Medicaid Programs already have discretion, without risking FFP, in certain limited situations to offer some – but not all – of Medicaid's spousal impoverishment protections to same-sex partners.<sup>83</sup>

Massachusetts has dealt with this problem by prohibiting Massachusetts Medicaid from discriminating against same-sex spouses, and by providing state funding to pay for the benefits.<sup>84</sup> A recent California enactment also relates to long-term care.<sup>85</sup>

Two steps are in order to address this problem in the District of Columbia:

- Immediate implementation by D.C. Medicaid of all of the policy suggestions contained in the June 10, 2011 CMS guidance letter; and
- Legislation similar to The MassHealth Equality Law.

The financial impact of such measures will have to be researched; but our city can hardly justify making its support for equality contingent on its being cost-free. This issue presents one more challenge resulting from the District's subordination to Congress combined with the injustice of DOMA.

## 6.9 Training for Providers of Senior Services

"Who will be there for us, who will help care for us without judgment?" The services network for older Americans has a widespread reach in almost every community in the District of Columbia. Unfortunately, there is little focused attention on how to provide the staff and volunteers of these agencies the tools to develop culturally competent organizations that would include policies and mandated training to assist in carrying out the nondiscrimination provisions of the DCHRA. Implementation of culturally competent policies and training can create an environment that provides confidence and security for the District's LGBT seniors. They won't have to hide their identity and life experiences in what is often a vulnerable time in their lives. The D.C. Office on Aging should assist in holding such agencies accountable for establishing a culturally competent environment by working with the Washington, D.C. LGBT Aging Coalition of Elders to implement criteria for an agency "Stamp of Approval" that includes education, training and other resources for service providers.

## 6.10 Funding for LGBT Senior Services

A dedicated funding stream for LGBT senior services could provide a sustained basis for fostering partnerships and coordinating efforts for more efficiency with District of Columbia aging service providers. Ample evidence now shows the distinctive needs within the older LGBT population. It is also

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<sup>82</sup> CMS letter to state Medicaid directors, June 10, 2011, <http://tinyurl.com/6uct8ut>

<sup>83</sup> Policy Issue Brief, National Senior Citizens Law Center, July 2011, <http://tinyurl.com/sve85s4>

<sup>84</sup> "MassHealth Equality law gives same-sex couples choice," Laura Kiritsy, *Bay Windows*, August 11, 2008, <http://tinyurl.com/MHEquality>

<sup>85</sup> California Assembly Bill No. 641, Approved by Governor October 9, 2011, <http://tinyurl.com/3zvl4xz>

# AGENDA: 2013

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well-known that transgender older adults and ethnic and racial minority senior members of the LGBT population often live below the poverty level and have heightened and cumulative risks of health disparities. Such funding could also provide opportunities for more accurately assessing the needs of our seniors.

# AGENDA: 2013

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## 7. Consumers and Businesses

### 7.1 Reforming Liquor Licensing Procedures

Increasing incidence of unpopular and lengthy battles in recent years against gay-welcoming Washington businesses demonstrates a pattern of abuse of the regulatory process, particularly in alcohol licensing matters. The problem is not anti-gay bigotry but unreasonable hostility toward urban nightlife and the hospitality industry by unrepresentative groups of residents who seek to prohibit or limit popular amenities vital to urban community life. The ability of a tiny minority to manipulate the licensing protest process can backfire, as we saw with the Toutorsky Mansion.<sup>86</sup> Emblematic of numerous similar instances throughout the District, serial liquor license objections over seven years against Hank's Oyster Bar by an ad hoc "Gang of 5 or more" protest group comprised of only five (originally 6) people demonstrated the inequities of the system.<sup>87</sup>

We support regulatory reforms to prevent gaming of the system by small numbers of people who seek to prevent legitimate businesses from operating, or to coerce operating concessions in exchange for withdrawing a license protest. This can only be achieved by allowing all stakeholders to equally participate in an open community process, as best provided by the accessible forum of the elected Advisory Neighborhood Commission (ANC). Unique legal standing should not be granted to either ad hoc groups or citizen associations; rather, community input is legitimately and best provided by means of the established "great weight" accorded the ANC.

Further, evenhanded implementation of citywide laws should be available to all businesses absent specific failure to comply with the regulations or in response to demonstrable and measurable harm such that the licensing privilege merits limitation. The common practice of ANCs – and license protest groups under existing protocols we hope will be reformed – to utilize licensing protests to propagate special operating restrictions for licensees within their purview dilutes equitable regulatory application, arbitrarily diminishes license value, and inappropriately establishes barriers to fair business competition. Use of Settlement Agreements to supersede District law on an *a priori* basis should be prohibited.

Steps should also be taken to restrict people who repeatedly file baseless complaints against licensed establishments. In the same manner that the courts will prevent repeat offenders from filing harassing and frivolous lawsuits, the Alcoholic Beverage Regulation Administration (ABRA), and other regulatory agencies may limit those people to a review before allowing the complaint to be entered or investigated. Law-abiding business owners, who bear the financial risk while serving customers and generating tax revenue, should not have to endure such harassment, nor should taxpayers have to subsidize it.

Recently enacted revisions to alcohol licensing procedures offer hope that due process will guide regulatory rulemaking moving forward. Additional reforms to Alcoholic Beverage Control (ABC) agency procedures are required to restore balance and common sense to the law. Ensuring regulatory fairness for the city's largest private sector business and major revenue contributor is critical to preserving our urban growth and vitality.

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<sup>86</sup> "Dupont denizens doth protest too much," Mark Lee, *Washington Blade*, November 17, 2011, <http://tinyurl.com/8syf8ut>

<sup>87</sup> "Hank's Oyster Spar," Jessica Sidman, *Washington City Paper*, June 27, 2012, <http://tinyurl.com/87j4sqj>

# AGENDA: 2013

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## 7.2 Defending Adult Entertainment

The District's hospitality industry generates a good deal of its revenue, and adult entertainment is part of the mix. Those who disapprove of nude dancing establishments are free to avoid them, but busybodies should not be permitted to boss their neighbors on matters that are none of their business.

## 7.3 Prostitution: Alternatives to Incarceration

Prostitution is not a profession filled with people who freely chose it from a host of options. Too many turn to it by necessity. These include gay teenagers who have been thrown out of the house by their parents, and transgender people whom discrimination has left with few options. They face greater risk of substance abuse, mental and physical abuse, and sexually transmitted diseases. The District has seen numerous murders of sex workers in recent years, many of which have gone unsolved.

Harassing, arresting and prosecuting people for survival sex solve none of their problems, but only pile more on.<sup>88</sup> The city must pursue safer, healthier, and more sustainable alternatives by providing drop-in centers, transitional housing, job training and other educational programs, counseling, addiction recovery programs, mental health services, and STD testing and treatment for at-risk populations. See Section 4.3 concerning our opposition to Prostitution-Free Zones. We appreciate Mayor Gray's initiatives on transgender employment; see Section 7.4.

## 7.4 Combating Transgender Unemployment

Transgender people in the District are unemployed at a rate ten times the national average. Most live far below the poverty level. According to the Office of GLBT Affairs, only six of 26,000 employees at District government agencies were openly transgender. More transgender women have been murdered in the last decade than were employed by the D.C. government.

We applaud Mayor Gray for instructing the Department of Employment Services (DOES) in August 2011 to launch a Project Empowerment pilot program which provided job training to transgender people to help them escape the streets.<sup>89,90</sup> This was a good first step. There have since been two additional Project Empowerment classes. Further initiatives by DOES and other District agencies are needed to address the persistent underemployment that endangers transgender citizens.

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<sup>88</sup> "Move Along: Policing Sex Work in Washington D.C.," Alliance for a Safe and Diverse DC, May 1, 2008, <http://tinyurl.com/85ksw9y>

<sup>89</sup> "Transgender residents to graduate from jobs program," Lou Chibbaro Jr., *Washington Blade*, October 6, 2011, <http://tinyurl.com/3mkevne>

<sup>90</sup> "17 graduate from trans job program," *Washington Blade*, October 13, 2011, <http://tinyurl.com/3v8ckmv>