

115TH CONGRESS
1ST SESSION

S. 2089

To amend the Older Americans Act of 1965 to provide equal treatment of LGBT older individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 2017

Mr. BENNET (for himself, Ms. BALDWIN, Mr. MERKLEY, Mr. MARKEY, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Older Americans Act of 1965 to provide equal treatment of LGBT older individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “LGBT Elder Ameri-
5 cans Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—Section 102 of the Older Ameri-
8 cans Act of 1965 (42 U.S.C. 3002) is amended—

9 (1) in paragraph (24)—

1 (A) in subparagraph (B), by striking
2 “and” at the end;

3 (B) in subparagraph (C)(ii), by striking
4 the period and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(D) status as an LGBT individual.”;

7 (2) by redesignating—

8 (A) paragraphs (36) through (54) as para-
9 graphs (38) through (56), respectively; and

10 (B) paragraphs (34) and (35) as para-
11 graphs (35) and (36), respectively;

12 (3) by inserting after paragraph (33) the fol-
13 lowing:

14 “(34) The term ‘LGBT’, used with respect to
15 an individual, means a lesbian, gay, bisexual, or
16 transgender individual.”; and

17 (4) by inserting after paragraph (36), as so re-
18 designated, the following:

19 “(37) The term ‘minority’, used with respect to
20 an individual, includes a lesbian, gay, bisexual, or
21 transgender individual.”.

22 (b) CONFORMING AMENDMENT.—Section
23 215(e)(1)(J) of the Older Americans Act of 1965 (42
24 U.S.C. 3020e–1(e)(1)(J)) is amended by striking “minori-
25 ties” and inserting “minority individuals”.

1 **SEC. 3. ADMINISTRATION ON AGING.**

2 (a) ESTABLISHMENT OF ADMINISTRATION.—Section
3 201 of the Older Americans Act of 1965 (42 U.S.C. 3011)
4 is amended—

5 (1) in subsection (d)(3)(J), by inserting before
6 the semicolon the following: “, including the effec-
7 tiveness of such services in meeting the needs of
8 LGBT older individuals”; and

9 (2) by adding at the end the following:

10 “(g) The Assistant Secretary is authorized to des-
11 ignate within the Administration a person to have respon-
12 sibility for addressing issues affecting LGBT older individ-
13 uals.”.

14 (b) FUNCTIONS OF ASSISTANT SECRETARY.—Section
15 202 of the Older Americans Act of 1965 (42 U.S.C. 3012)
16 is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (16)(A)(ii), by inserting
19 “, and separately specifying the number of such
20 individuals who are LGBT individuals” before
21 the semicolon;

22 (B) in paragraph (30), by striking “; and”
23 and inserting a semicolon;

24 (C) in paragraph (31), by striking the pe-
25 riod at the end and inserting “; and”; and

26 (D) by adding at the end the following:

1 “(32) conduct studies and collect data to deter-
2 mine the services that are needed by LGBT older in-
3 dividuals.”; and

4 (2) by adding at the end the following:

5 “(h)(1) The Assistant Secretary shall, directly or by
6 grant or contract, establish and operate the National Re-
7 source Center on Lesbian, Gay, Bisexual, and Transgen-
8 der Aging (in this subsection referred to as the ‘Center’).

9 “(2) To address the unique challenges faced by
10 LGBT older individuals, the Center shall provide national,
11 State, and local organizations, including those with a pri-
12 mary mission of serving LGBT individuals and those with
13 a primary mission of serving older individuals, with the
14 information and technical assistance the organizations
15 need to effectively serve LGBT older individuals.

16 “(3) The Center shall have 3 primary objectives, con-
17 sisting of—

18 “(A) educating aging services organizations
19 about the existence and special needs of LGBT older
20 individuals;

21 “(B) sensitizing LGBT organizations about the
22 existence and special needs of older individuals; and

23 “(C) providing educational resources to LGBT
24 older individuals and their caregivers.

1 “(4)(A) To be eligible to receive funds under this sub-
2 section, an entity—

3 “(i) shall have demonstrated expertise in work-
4 ing with organizations or individuals on issues af-
5 fecting LGBT individuals;

6 “(ii) shall have documented experience in pro-
7 viding training and technical assistance on a na-
8 tional basis or a formal relationship with an organi-
9 zation that has that experience; and

10 “(iii) shall meet such other criteria as the As-
11 sistant Secretary shall issue.

12 “(B) To be eligible to receive funds under this sub-
13 section, an entity shall submit an application to the Assist-
14 ant Secretary at such time, in such manner, and con-
15 taining such information as the Assistant Secretary may
16 require.

17 “(5) The Assistant Secretary shall make available to
18 the Center on an annual basis such resources as are nec-
19 essary for the Center to carry out effectively the functions
20 of the Center under this Act and not less than the amount
21 of resources made available to the National Resource Cen-
22 ter on LGBT Aging, existing on the day before the date
23 of enactment of the LGBT Elder Americans Act of 2017,
24 for fiscal year 2017.

1 “(6) The Assistant Secretary shall develop and issue
2 operating standards and reporting requirements for the
3 Center.”.

4 (c) REPORTS.—Section 207 of the Older Americans
5 Act of 1965 (42 U.S.C. 3018) is amended—

6 (1) in subsection (a)(3), by inserting “LGBT
7 individuals,” after “low-income individuals,”;

8 (2) in subsection (c)—

9 (A) in paragraph (1), by inserting “, and
10 separately specify the number of such individ-
11 uals who are LGBT individuals” before the
12 semicolon;

13 (B) by redesignating paragraphs (4) and
14 (5) as paragraphs (5) and (6), respectively; and

15 (C) by inserting after paragraph (3) the
16 following:

17 “(4) the effectiveness of such activities in as-
18 sisting LGBT individuals;”; and

19 (3) by adding at the end the following:

20 “(d) The Assistant Secretary shall ensure that—

21 “(1) no individual will be required to provide in-
22 formation regarding the sexual orientation or gender
23 identity of the individual as a condition of partici-
24 pating in activities or receiving services under this
25 Act; and

1 “(2) no agency or other entity providing activi-
2 ties or services under this Act that receives, for the
3 purposes of this Act, information regarding the sex-
4 ual orientation or gender identity of an individual
5 will disclose the information in any form that would
6 permit such individual to be identified.

7 “(e) The Assistant Secretary shall develop appro-
8 priate protocols, demonstrations, tools, or guidance for use
9 by State agencies and area agencies on aging, to ensure
10 successful implementation of data collection requirements
11 under section 201(d)(3)(J), paragraphs (16)(A)(ii) and
12 (29) of section 202(a), subsections (a)(3), (c)(1), and
13 (c)(4), and section 307(a)(6), relating to LGBT individ-
14 uals.

15 “(f) The Assistant Secretary shall determine when
16 the data collection requirements described in subsection
17 (e) shall apply, taking into consideration the complexity
18 and importance of each requirement, but each requirement
19 shall apply not later than 1 year after the date of enact-
20 ment of the LGBT Elder Americans Act of 2017.”.

21 **SEC. 4. GRANTS FOR STATE AND COMMUNITY PROGRAMS**

22 **ON AGING.**

23 Section 301(a)(2) of the Older Americans Act of
24 1965 (42 U.S.C. 3021(a)(2)) is amended—

1 (1) in subparagraph (E), by striking “; and”
2 and inserting a semicolon;

3 (2) by redesignating subparagraph (F) as sub-
4 paragraph (G); and

5 (3) by inserting after subparagraph (E) the fol-
6 lowing:

7 “(F) organizations that serve LGBT indi-
8 viduals; and”.

9 **SEC. 5. ACTIVITIES FOR HEALTH, INDEPENDENCE, AND**
10 **LONGEVITY.**

11 Section 411(a)(11) of the Older Americans Act of
12 1965 (42 U.S.C. 3032(a)(11)) is amended to read as fol-
13 lows:

14 “(11) conducting activities of national signifi-
15 cance to promote quality and continuous improve-
16 ment in the support and services provided to individ-
17 uals with greatest social need, through activities that
18 include needs assessment, program development and
19 evaluation, training, technical assistance, and re-
20 search, concerning—

21 “(A) addressing physical and mental
22 health, disabilities, and health disparities;

23 “(B) providing long-term care, including
24 in-home and community-based care;

1 “(C) providing informal care, and formal
2 care in a facility setting;

3 “(D) providing access to culturally respon-
4 sive health and human services; and

5 “(E) addressing other gaps in assistance
6 and issues that the Assistant Secretary deter-
7 mines are of particular importance to older in-
8 dividuals with greatest social need.”.

9 **SEC. 6. DATA ON DISCRIMINATION.**

10 Section 712 of the Older Americans Act of 1965 (42
11 U.S.C. 3058g) is amended—

12 (1) in subsection (a)(3)—

13 (A) by redesignating subparagraphs (F)
14 through (J) as subparagraphs (G) through (K);
15 and

16 (B) by inserting after subparagraph (E)
17 the following:

18 “(F) collect and analyze data, relating to
19 discrimination against LGBT older individuals
20 on the basis of actual or perceived sexual ori-
21 entation or gender identity in the admission to,
22 transfer or discharge from, or lack of adequate
23 care provided in long-term care settings, and
24 shall include the analyses in the reports de-
25 scribed in subsection (h)(1);”;

1 (2) in subsection (h)(6), in the matter pre-
2 ceding subparagraph (A), by striking “(A) through
3 (G)” and inserting “(A) through (H)”.

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