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112TH CONGRESS
2D SESSION

S. 3575

To amend the Older Americans Act of 1965 to provide equal treatment of LGBT older individuals.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2012

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To amend the Older Americans Act of 1965 to provide equal treatment of LGBT older individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''LGBT Elder Americans Act of 2012''.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) in paragraph (24)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(D) status as an LGBT individual.'';

(2) by redesignating—

(A) paragraphs (36) through (54) as paragraphs (38) through (56), respectively; and

(B) paragraphs (34) and (35) as paragraphs (35) and (36), respectively;

(3) by inserting after paragraph (33) the following:

''(34) The term 'LGBT', used with respect to an individual, means a lesbian, gay, bisexual, or transgender individual.''; and

(4) by inserting after paragraph (36), as so redesignated, the following:

''(37) The term 'minority', used with respect to an individual, includes a lesbian, gay, bisexual, or transgender individual.''.

(b) CONFORMING AMENDMENT.—Section 215(e)(1)(J) of the Older Americans Act of 1965 (42 U.S.C. 3020e–1(e)(1)(J)) is amended by striking ''minorities'' and inserting ''minority individuals''.

SEC. 3. ADMINISTRATION ON AGING.

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

(1) in subsection (d)(3)(J), by inserting before the semicolon the following: ", including the effectiveness of such services in meeting the needs of LGBT older individuals"; and

(2) by adding at the end the following:

"(g) The Assistant Secretary is authorized to designate within the Administration a person to have responsibility for addressing issues affecting LGBT older individuals.".

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

(1) in subsection (a)—

(A) in paragraph (16)(A)(ii), by inserting ", and separately specifying the number of such individuals who are LGBT individuals" before the semicolon;

(B) in paragraph (27)(C), by striking "; and" and inserting a semicolon;

(C) in paragraph (28), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

''(29) conduct studies and collect data to determine the services that are needed by LGBT older individuals.''; and

(2) by adding at the end the following:

''(g)(1) The Assistant Secretary shall, directly or by grant or contract, establish and operate the National Resource Center on Lesbian, Gay, Bisexual, and Transgender Aging (in this subsection referred to as the 'Center').

''(2) To address the unique challenges faced by LGBT older adults, the Center shall provide national, State, and local organizations, including those with a primary mission of serving LGBT individuals, and those with a primary mission of serving older adults, with the information and technical assistance the organizations need to effectively serve LGBT older adults.

''(3) The Center shall have 3 primary objectives, consisting of—

''(A) educating aging services organizations about the existence and special needs of LGBT older adults;

''(B) sensitizing LGBT organizations about the existence and special needs of older adults; and

''(C) providing educational resources to LGBT older adults and their caregivers.

''(4)(A) To be eligible to receive funds under this subsection, an entity—

''(i) shall have demonstrated expertise in working with organizations or individuals on issues affecting LGBT individuals;

''(ii) shall have documented experience in providing training and technical assistance on a national basis or a formal relationship with an organization that has that experience; and

''(iii) shall meet such other criteria as the Assistant Secretary shall issue.

''(B) To be eligible to receive funds under this subsection, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

''(5) The Assistant Secretary shall make available to the Center on an annual basis such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the National Resource Center on Lesbian, Gay, Bisexual, and Transgender Aging for fiscal year 2012.

''(6) The Assistant Secretary shall develop and issue operating standards and reporting requirements for the Center.''.

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

(1) in subsection (a)(3), by inserting ''LGBT individuals,'' after ''low-income individuals,'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting '', and separately specify the number of such individuals who are LGBT individuals'' before the semicolon;

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

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

''(4) the effectiveness of such activities in assisting LGBT individuals;''; and

(3) by adding at the end the following:

''(d) The Assistant Secretary shall ensure that—

''(1) no individual will be required to provide information regarding the sexual orientation or gender identity of the individual as a condition of participating in activities or receiving services under this Act; and

''(2) no agency or other entity providing activities or services under this Act, that receives, for the purposes of this Act, information regarding the sexual orientation or gender identity of an individual will disclose the information in any form that would permit such individual to be identified.

''(e) The Assistant Secretary shall develop appropriate protocols, demonstrations, tools, or guidance for use by State agencies and area agencies on aging, to ensure successful implementation of data collection requirements under section 201(d)(3)(J), paragraphs (16)(A)(ii) and (29) of section 202(a), subsections (a)(3), (c)(1), and (c)(4), and section 307(a)(6), relating to LGBT individuals.

''(f) The Assistant Secretary shall determine when such data collection requirements shall apply, taking into consideration the complexity and importance of each requirement, but each requirement shall apply not later than 1 year after the date of enactment of the LGBT Elder Americans Act of 2012.''.

SEC. 4. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING.

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

(1) in subparagraph (E), by striking ''; and'' and inserting a semicolon;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

''(F) organizations that serve LGBT individuals; and''.

SEC. 5. ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY.

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

''(11) conducting activities of national significance to promote quality and continuous improvement in the support and services provided to individuals with greatest social need, through activities that include needs assessment, program development and evaluation, training, technical assistance, and research, concerning—

''(A) addressing physical and mental health, disabilities, and health disparities;

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

''(C) providing informal care, and formal care in a facility setting;

''(D) providing access to culturally responsive health and human services; and

''(E) addressing other gaps in assistance and issues that the Assistant Secretary determines are of particular importance to older individuals with greatest social need.''.

SEC. 6. DATA ON DISCRIMINATION.

Section 712(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3058g(a)(3)) is amended—

(1) by redesignating subparagraphs (F) through (I) as subparagraphs (G) through (J); and

(2) by inserting after subparagraph (E) the following:

''(F) collect and analyze data, relating to discrimination against LGBT older individuals on the basis of actual or perceived sexual orientation or gender identity in the admission to, transfer or discharge from, or lack of adequate care provided in long term care settings, and shall include the analyses in the reports;''.

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