



**Statement by Chris Erchull,
Staff Attorney, GLBTQ Legal Advocates & Defenders (GLAD),
Before the House Committee on Human Services,
in Support of House Bill 611,
“An act relating to the Older Vermonters Act”**

Honorable Chairperson Pugh and Members of the Committee:

Thank you for taking the time to consider my testimony in support of House Bill 611, “An act relating to the Older Vermonters Act.” This legislation would provide much needed support for a growing population with particular needs.

As an attorney with GLBTQ Legal Advocates & Defenders (GLAD), New England’s leading legal rights organization dedicated to ensuring equality for LGBTQ people and people living with HIV, I write to ask the Committee to vote in support of H.611, and to urge you to consider incorporating several additional supports for Vermont’s LGBT older adults.¹

Older Vermonters are friends, family members, and contributing parts of our workplaces, volunteer networks, faith communities, and neighborhoods. Many have lived and continue living full and rewarding lives. Still, challenges arise for older adults and, sometimes, those challenges are unique to a community, as with aging LGBT individuals.

Historically, LGBT people have experienced discrimination and exclusion, directed at who they are, and the resulting cultural stigma and disadvantage have affected their life opportunities. Within the lifetime of older LGBT Vermonters, being LGBT was considered an illness by the American Psychiatric Association (corrected for LGB in 1973, and 2013 for transgender persons). Until a Supreme Court case in 2003,² states were permitted to criminalize consenting, same-sex sexual relations, and no formal recognition of such relationships and families came until 1999 with Vermont’s civil union law. To this day, the Federal government does not expressly prohibit discrimination in employment, housing, and healthcare for LGBT people, and fewer than half of states have enacted laws barring discrimination. Immigration was foreclosed to LGB immigrants until 1990 when the “psychopathic personality” restriction was removed, and the U.S. military now allows openly LGB people to serve (since 2011) but still seeks to exclude transgender service members. While this is an incomplete history, the point is that being an LGBT person, or being in an same-sex relationship, has occasioned

¹ GLAD notes its agreement with the suggestions included in the testimony of Brenda Churchill and Keith Goslant. Approximately 3% of Vermonters over the age of 65 are LGBT. That percentage is expected to increase over time as Vermont’s population ages. See Williams Institute, *LGBT Proportion of Population: Vermont*, available at <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT&area=50#density>.

² *Lawrence v. Texas*, 539 U.S. 558 (2003).

stigma and discrimination against LGBT people for over 100 years, including in the lifetimes of *all* older Vermonters.

Although experiences vary, there are consequences to this historical (and present) discrimination. In some cases, LGBT older adults have become alienated from their families of origin. LGBT adults have not been able to have children together until fairly recently, and second parent adoption only became available in Vermont in 1993. Even with the groundbreaking state civil union law in 2000 and marriage law in 2009, same-sex couples have been able to marry nationwide only since 2015.³ They have been disproportionately impacted by the HIV epidemic.⁴ Due to these factors and more, LGBT adults are less likely to have the care and support of a spouse, children, or siblings as they age.⁵ They are more likely to be economically disadvantaged.⁶ They experience worse health outcomes than their non-LGBT counterparts.⁷ In addition, many LGBT older adults may conceal their identities as they become reliant on care providers because of fear of harassment and discrimination.⁸

We applaud the proposed Older Vermonters Act for its aspirational commitment to the dignity, security, and health of aging residents. For the legislation to be truly inclusive of all Vermonters, we respectfully submit the recommendations that follow in order to address the specific needs of the LGBT community.

A. Acknowledgment of Diversity.

The bill may benefit from an acknowledgment of the diversity of Vermont's older adults to reflect the Act's goal of being truly inclusive for all Vermonters. For example, within Bill § 6202:

Older Vermonters, who reflect the diversity of our great State, have the right to feel safe, respected, and comfortable in being themselves and expressing all aspects of their identities.

An acknowledgment of the diversity of Vermont's older adults will set the expectation that the Act truly is inclusive of everyone.

B. Definition of Family

³ The Vermont legislature permitted same-sex couples to enter into civil unions beginning on July 1, 2000, after the landmark judicial ruling in *Baker v. Vermont*, 744 A.2d 864 (Vt. 1999). The Marriage Equality Act took effect nearly a decade later on September 1, 2009. Vermont marriages were not federally recognized until the U.S. Supreme Court decision in *United States v. Windsor*, 570 U.S. 744 (2013).

⁴ Men who have sex with men are over forty times more likely to be living with HIV than other men or women. See The Foundation for AIDS Research, *Issue Brief* (Sept. 2012), available at https://www.amfar.org/uploadedFiles/_amfarorg/In_The_Community/EndingEpidemicIB.pdf.

⁵ See Movement Advancement Project & SAGE, *Understanding Issues Facing LGBT Older Adults* (May 2017), available at <http://lgbtmap.org/understanding-issues-facing-lgbt-older-adults>.

⁶ See *id.*

⁷ See Karen I. Fredriksen-Goldsen, et al., *The Aging and Health Report: Disparities and Resilience Among Lesbian, Gay, Bisexual, and Transgender Older Adults* (2012), available at <https://agepride.org/wp-content/uploads/2019/10/Full-report10-25-12.pdf>.

⁸ See Fenway Health Institute & National Center for Equitable Care for Elders, *Promoting the Behavioral Health of LGBT Older Adults* (May 2019), available at https://www.lgbthealtheducation.org/wp-content/uploads/2019/07/TFIE-34_LGBT-Older-Adults-Brief_final_web.pdf.

Currently, the Act defines a “Family caregiver” as “an adult family member or other individual who is an informal provider of in-home and community care to an older Vermonter or to an individual with Alzheimer’s disease or a related disorder.” Bill § 6203(4). For many LGBT older adults, the term “family member” falls short of describing the chosen family upon whom they are most likely to rely for support as they age. While the phrase “or other individual” allows the definition to be flexible and expansive, an ideal definition would acknowledge the broader conception of family shared by many LGBT older adults. For example:

Family caregiver means an adult who shares a relationship of mutual love and support with an Older Vermonter, whether they reside together or not, and whether they are in a legally recognized relationship or not.

A more expansive definition will signal the intention of the legislature to be fully inclusive of chosen families.

C. Data Collection

The Act mandates that the State Plan on Aging be informed by data from older Vermonters, their family members, and their care providers. Bill § 6206(b)(1). That information will be more complete if it reflects the sexual orientation and gender identity of the members of the community. We recommend that such information be collected from all those who are comfortable disclosing those aspects of their identity.

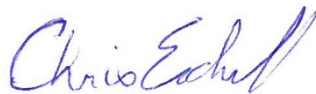
D. Advisory Board Composition

The Advisory Board for the Department of Disabilities, Aging, and Independent Living is tasked with monitoring the implementation and administration of the Older Vermonters Act. Bill § 6204(c). The Advisory Board was statutorily created to advise the Commissioner of the Department. 33 V.S.A. § 505. We recommend that the bill include a requirement that the Advisory Board have one or more seats reserved for stakeholders invested in supporting Vermont’s marginalized communities.

The Older Vermonters Act is an excellent opportunity for the legislature to take an important step in the direction of caring for some of Vermont’s most vulnerable citizens. Thank you for your consideration of our suggestions, and I hope you will support H.611.

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