

2018 GLAA Questionnaire for D.C. Council Candidates
Councilmember Mary M. Cheh, Democrat, Ward 3

HOUSING

1. Yes. It is imperative that every shelter in the District complies with the law regarding nondiscrimination on the basis of sexual orientation and gender identity, as well as policies and procedures to accommodate transgender or gender-nonconforming clients. LGBTQ homeless residents are among our most vulnerable. An individual's sexual orientation or gender identity should never be a barrier to them receiving any government service or benefit, including shelter. That is precisely why I authored the *LGBTQ Homeless Youth Reform Act*, which not only addressed barriers for homeless LGBTQ youth, but also codified cultural competency standards and training for shelter staff on the needs of the LGBTQ community at large. DHS should not tolerate any violation of the law in this respect, and if the agency is not conducting appropriate oversight of any shelter, I would instruct them to immediately do so.

HEALTH

2. Yes. I have long believed that we cannot evaluate what we do not measure. If the District government is not capturing data on the specific and unique needs of the LGBTQ community, or is not doing so in an accurate, comprehensive, or effective matter, we are doing the LGBTQ community a disservice. Community input in such a health report is very important because those within the community are usually most knowledgeable about the kinds of questions that should be asked (and how they should be asked), as well as what should be measured. The experts at DOH should solicit input from the community, including through a community advisory group. Adequate resources should be provided to facilitate this process. And, it should go without saying, any LGBT Health Report produced by or in conjunction with the Department of Health should absolutely be trans-inclusive.
3. Yes. Health outcomes differ among subpopulations and certain health inequities exist within those groups. The LGBT community is no different in this respect. We should be targeting resources and treatments to minority populations as necessary. And, finding out where and among whom these health disparities and inequities exist is facilitated by robust data collection. As noted in question 2 (above), I support accurate, comprehensive, and effective data collection of the LGBT community, especially with respect to health inequities and outcomes.
4. Yes. Pre- and post-exposure prophylaxis are two of our strongest tools in the fight against new HIV infections. Although many have long known this, there are still many

more, particularly in underserved areas of the District, where PEP and PrEP are not being prescribed and where public information and education is lacking. I do believe, however, that public awareness alone is insufficient. We should remove every possible barrier that prevents access to these vital prophylactics. This includes dedicating funding to reduce the burden on those who are low-income or who do not have adequate health insurance to cover the costs associated with PEP and PrEP. This effort should also include prohibiting efforts by insurance companies to dissuade individuals from seeking such medication. That is why I introduced the *Pre-exposure Prophylaxis Discrimination Amendment Act of 2018*, which would prohibit insurance companies from factoring the use of PrEP in decisions related to the issuance or pricing of disability, life, or long-term care insurance policies.

JUDICIARY

5. I have not yet taken a position on the decriminalization of commercial sex; however, I do have specific concerns with B22-516, the *Reducing Criminalization to Improve Community Safety and Health Amendment Act*, as drafted. B22-516 repeals prostitution-related offenses (and associated penalties) from the D.C. Code, but puts no alternative system in place. As the author of the *Sex Trafficking of Minors Prevention Amendment Act*, I am sensitive to the collateral consequences of criminalization in this area. With that legislation, I wanted to ensure that young people engaging in this work were not arrested and prosecuted but rather referred to services. For adults who engage in sex work for survival, I believe a similar approach may be effective. But I cannot foresee supporting the outright elimination of penalties for prostitution without at least first considering whether we have the appropriate interventions in place and a mechanism for linking sex workers to those interventions. I do support the creation of a task force to study the effects of removing criminal penalties for commercial sex in the District, as the legislation contemplates; however, I would prefer to see that work conclude before any penalties are repealed. No US jurisdiction has taken the step this bill contemplates, and if the District is to become the first, it should be after considerable thought and careful study.

6. I am open to any proposal to improve the lives of marginalized communities that engage in sex work, including the LGBT community. Whether sex work is illegal or not, in its present state, it is not altogether safe for sex workers. The question of whether sex workers have access to condoms and other prophylactics, adequate health care, safe and stable housing, and behavioral health treatment does not need to be linked to whether the work they engage in is legal. If fear of arrest or prosecution prevents a sex worker from accessing any of the aforementioned necessities, the Council and

the Mayor should work with relevant law enforcement and social service agencies to address that issue.

7. To the extent that individuals resort to sex work for survival, the District has an obligation to not only work to make sure such individuals are safe, but also offer assistance in finding safe housing, suitable alternative employment, access to job training, and education. A person engaging in commercial sex work out of necessity may be more likely to be exploited or place herself or himself in danger. I would support programs that work to identify those engaged in commercial sex work, offer them applicable social or health services, access to affordable and safe housing, and connect them to opportunities for education, job training, or employment.
8. Yes, if there is are still referrals that the Office of Police Complaints (OPC) and the Police Complaints Board (PCB) believe they are not receiving from the Metropolitan Police Department (MPD), or if other information is needed to effectively resolve a complaint. I was the lead introducer on each iteration of the Police Monitoring Enhancement Act because I was concerned about complaints that were filed directly with MPD or the DC Housing Authority Police Department (rather than OPC) not being referred to and investigated by the PCB. However, the Council's expansion of OPC's jurisdiction in the NEAR Act seems to have mitigated most of these issues. According to the Office of Police Complaints' 2017 Annual Report, because of Council action, "[n]ow, the majority of complaints are investigated by OPC, regardless of whether they were filed directly with MPD, the DC Housing Authority Police Department, or with [OPC's] independent office." OPC also noted that "[w]hen MPD receives a complaint, that complaint must be forwarded to OPC within three business days." I will, of course, monitor this referral system to ensure that OPC has all the tools it needs to effectively and efficiently resolve police complaints.
9. Yes. Out of respect for the privacy of the individual and the individual's safety, the District should be consistent with the several other jurisdictions (including Maryland) that allow for the sealing of records related to court-ordered name or gender changes. Exceptions to this process could be included for extraordinary circumstances, but such exceptions should be narrow in scope and the desire to unseal must be carefully weighed against any risk to the individual's safety or privacy.

HUMAN RIGHTS

10. There are a number of steps we can take to improve employment outcomes for our transgender residents. First, we must fund the Office of Human Rights (OHR) at a level that allows it to accomplish its mission. OHR performs tremendous work, however, a number of progressive employment and discrimination protections

enacted by the Council in recent years have placed a heavy burden on the Office, which has led to backlogs in review and processing of complaints. Funding that Office appropriately can help prevent bad actors from firing or refusing to hire transgender residents in a discriminatory manner. Additionally, the Department of Small and Local Business Development (DSLBD) and the Department of Employment Services (DOES), if they are not already, should take specific action related to LGB and transgender hiring, including working with LGBTQ community organizations to connect opportunities to potential applicants. Additionally, the District government should continue to ensure that particular identity documents required for employment do not act as unnecessary barriers for transgender residents. Changing one's name or gender designation should be a simple, navigable process. Bureaucracy should never be the reason a person cannot get the identity documents they need to successfully apply or be hired for a job.

Not only does a persistent unemployment gap exist for LGBTQ residents, but also a wage gap. The Williams Institute found that, nationally, gay and bisexual men earn substantially less than similarly qualified heterosexual men and that the earnings of transgender women falls by nearly 1/3 following the woman's gender transition. Although these problems can be difficult to detect, as enforcement occurs primarily through complaints by the victim of wage theft (a process not all LGBTQ people feel comfortable undertaking for myriad reasons), increased resources and attention by OHR and DOES would help in those cases where a victim does report such discrimination.

YOUTH

11. Yes. In the past, I have worked to both change the law and provide funding related to LGBTQ youth housing. As mentioned above, as the author of the *Homeless Youth Reform Amendment Act*, I worked to address the shelter and shelter service needs of LGBTQ youth. Additionally, in the FY 2013 budget I secured approximately \$972,000 to expand housing capacity specifically targeted to LGBTQ youth. I would continue to support funding for transitional housing that serves the unique needs of LGBTQ youth, as well as ensuring that treatment and appropriate interventions are tailored to meet the needs of LGBTQ youth.

SENIORS

12. Yes. As LGBTQ individuals age, we must ensure that they have the same access to housing and senior living facilities as any other group. Additionally, such housing and facilities should be culturally competent in LGBTQ issues, employ staff that are properly trained in the specific needs of the LGBTQ senior community, and be

equipped to address those needs. I would support increased funding, resources, and attention to these issues.

13. Yes. Recent reports from the Office on Aging suggest that LGBTQ seniors, who are more likely to lack familial support structures, report that the District does not provide sufficient LGBTQ elder social programming provided to many of the city's other elder minority groups. The government has an obligation to act to protect vulnerable populations. I would support funding for congregate meals and other services to keep LGBTQ seniors engaged in the community.

CONSUMERS AND BUSINESS

14. Yes. As a co-introducer of B22-47, I support eliminating the pay-to-play system that has plagued District politics. The impression that certain contractors or individuals have paid their way into getting contracts, face time, or other special treatment from the government is pernicious to good government. Such favoritism can also result in others in an "unfavored" status to refrain from participating in government, including bidding on contracts. That lack of competition is harmful to the District – on costs related to contracts, work quality, and engagement of local workers and firms. That is why I believe the Council should strongly consider amending campaign finance law to limit contributions from entities seeking or receiving contracts from the District government. As a government, we must be vigilant about removing the levers that allow certain individuals and entities to achieve favored status.

15. I am concerned about the bidding process for city contracts. I believe there are a number of steps we can take to improve the process and I have introduced legislation to make some of these changes. First, I introduced the *Non-Profit Certified Business Enterprise Amendment Act of 2017*, which would allow non-profit organizations to qualify for the District's CBE program. This will improve competition among all CBEs and allow those companies that are not motivated by profit to compete for District government contracts. Additionally, I introduced the *Lobbying Disclosure Amendment Act of 2017*, which would update the definition of lobbying to require disclosure of all communications by lobbyists with officials in the legislative or executive branch for the purpose of influencing contracts, reprogrammings, or other procurement actions taken by the District government. This came out of my inquiry into the procurement practices of the Department of General Services. In the course of that review, I made a number of other recommendations, including that District law should be clarified on how CBE preference points are awarded; a top-to-bottom review of the CBE system as a whole; updates and standardization of the solicitation and bid review process across District government agencies, and asking the Council

to consider amending campaign finance laws to regulate campaign contributions by contractors.

APPENDIX:

- Lead author of the **LGBTQ Homeless Youth Reform Amendment Act**, which addresses the service and shelter needs of homeless youth in the District who identify as LGBTQ.
- Secured nearly **\$972,000 in the FY 2013 budget** to expand shelter capacity for homeless youth who identify as LGBTQ and for permanent supportive housing for seniors
- Lead author of the **Conversion Therapy for Minors Prohibition Amendment Act**, which prohibits District-licensed mental health professionals from using practices or therapies designed to change the sexual orientation or gender identity of a minor.
- Lead author of **The Death Certificate Gender Identity Recognition Amendment Act**, which clarified the process for respecting a decedent's gender identity on his or her death certificate. This bill creates a hierarchy of sources to consult to determine how the decedent identified in life when the person completing the death certificate was not familiar with the decedent, or when individuals close to the decedent disagree about his or her gender identity.
- Lead introducer of **The Foster-Parent Pre-Service Training Regulation Amendment Act**, which would require the Child & Family Services Administration staff to train foster parents on the needs of youth with mental and physical disabilities, older children, children of different ethnicities, sibling groups, and LGBTQ youth in care. These children are considered special needs youth, meaning that they face barriers to finding a permanent home that other youth in care do not. This bill aims to increase the awareness of potential foster and adoptive parents of the prevalence and needs of these youth, and to assist CFSA in finding them permanent homes. This bill was introduced in February 2017 and is currently pending in the Committee on Human Services.
- Lead introducer of the **Pre-exposure Prophylaxis Discrimination Amendment Act**, which would prohibit insurance companies from factoring the use of pre-exposure prophylaxis (PREP) in decisions related to the issuance of disability, life, or long-term care insurance policies. The bill was introduced in March 2018 and is currently pending in the Committee on Business and Economic Development.
- Lead author of the **Death with Dignity Act**, which establishes procedures and safeguards regarding the request for and dispensation of covered medication to qualified patients who are terminally ill and wish to die in a humane and dignified manner.

- Co-author of the **Religious Freedom and Civil Marriage Equality Amendment Act**, which legalized marriage equality in the District. Spoke against and helped defeat a religious conscience clause introduced at the markup of the legislation.
- Co-author of the **Marriage Officiant Amendment Act**, which established the authority for a civil celebrant, temporary officiant, Council member, Mayor, or the parties to the marriage themselves to solemnize a marriage in the District.
- Co-author of the **Civil Marriage Dissolution Equality Act**, which provided a mechanism for the dissolution of a marriage that was performed in the District, but the parties to which reside in another jurisdiction that does not recognize the marriage or otherwise will not dissolve the marriage.
- Co-author of the **Domestic Partnership Termination Recognition Amendment Act**, which permits individuals to obtain a judgment from DC Superior Court terminating their domestic partnership when another jurisdiction would not recognize the termination through the administrative process at the District Department of Health.
- Co-author of the **Japarker Deoni Jones Birth Certificate Equality Amendment Act**, which requires the District's Registrar to issue a new birth certificate designating a new gender for any individual who provides a written request and a signed statement from a licensed healthcare provider that the individual has undergone a gender transition, and to require that the original birth certificate be sealed when the new certificate is issued.
- Co-author of the **Collaborative Reproduction Amendment Act**, which permits and establishes requirements for surrogacy agreements in the District, and, among other updates, establishes a route for a child and his or her intended parent to create a legal relationship. The legislation also governs proceedings to establish that relationship, including providing for court orders of parentage. This legislation updated existing District law that prohibited surrogacy parenting contracts, bringing the District in line with other progressive jurisdictions.
- Co-author of the **Youth Suicide Prevention and School Climate Survey Act**, which requires OSSE to adopt rules requiring training for teachers and administrators to undergo training on suicide prevention and intervention, as well as establish and implement the collection of school climate data.
- Co-author of the **Sense of the Council in Opposition to Acts of Hate Resolution**, which declared the sense of the Council that acts of hate would not be tolerated in the District. The resolution called on the District government and District residents to work together to put an end to hate crimes in the District.
- Co-author of the **LGBT Equality Day Recognition Resolution**, which recognized June 26th as LGBT Equality Day in the District of Columbia. The resolution also recognized the importance of three recent decisions from the United States Supreme Court that advanced the rights of LGBTQ Americans: *Lawrence v. Texas* in 2003, *United States v. Windsor* in 2013, and *Obergefell v. Hodges* in 2015.

- Co-introducer of the **Lesbian, Gay, Bisexual, Transgender and Questioning Health Disparities Documentation Act**, which would have required the Department of Health to collect demographic data on sexual orientation and gender identity as part of its annual public health survey, the Behavioral Risk Factor Surveillance Survey.
- Co-introducer of **The Nonbinary Identification Cards Amendment Act**, which would have permitted applicants for a District driver's license, learner's permit, or non-driver's identification card to designate their gender as nonbinary. This legislation would expand access to licenses to nonbinary individuals in the District, who are currently required to choose a male or female marker, designations that do not accurately represent their gender. Shortly after this bill was introduced, the Mayor announced that the DMV would permit applicants to use a nonbinary designation.
- Co-sponsor of the **Senior HIV/AIDS Education and Outreach Program Establishment Act**, which established a Senior HIV/AIDS Education and Outreach Program to train seniors to serve as peer educators. The legislation seeks to address a disparity in the number of residents aged 50 and older living with HIV/AIDS, including a large portion of annual new diagnoses.
- Co-sponsor of the **HIV/AIDS Continuing Medical Education Amendment Act**, which establishes continuing education requirements for physicians, physicians' assistants, and nurses on issues related to HIV and AIDS. Specifically, any continuing education requirements would need to include at least three credits in instruction on HIV, AIDS, the communities the two diseases impact, and cultural competency when engaging with HIV/AIDS patients.
- Co-sponsor of the **LGBT Cultural Competency Continuing Education Amendment Act**, which amends the District of Columbia Health Occupations Act of 1985 to require continuing education for licensed health professionals regarding LGBTQ cultural competency.
- Co-sponsor of the **Expedited Partner Therapy Act**, which allows health care providers to prescribe prescription drugs to the intimate partner of a patient diagnosed with certain sexually transmitted infections without the need for an examination.
- Co-sponsor of the **Comprehensive HIV Prevention Plan Act**, which would have required the Mayor to develop a comprehensive HIV/AIDS behavioral prevention community-based system that would focus on and emphasize peer-based prevention/intervention programs for the District's neighborhoods and at-risk populations. The District created the HIV Prevention Planning Group in 2011 to guide HIV prevention in the District of Columbia, and which develops and implements a similar prevention plan.
- Supported the **Insurance Coverage for Emergency Department HIV Testing Amendment Act**, which requires insurance companies to pay for HIV/AIDS testing whenever someone comes to a hospital emergency room. At a Health Committee oversight hearing, pressed the Department of Health to see that the law was being implemented.

- Introduced legislation (passed as part of the budget) **prohibiting discrimination and harassment** against unpaid interns.
- Introduced legislation (passed as part of the Omnibus Public Safety and Justice Amendment Act) adding **homelessness as a protected class** to the anti-bias crime laws.
- Co-Sponsor of the **Hate Crime Training for Law Enforcement Amendment Act**, which would have required MPD officers to be trained in investigating, identifying and report crimes based on hate.
- **Opposed proposed rulemaking** that would have removed the protections of the Human Rights Act to persons in custody
- Shepherded the **Healthy Schools Act**, which among other things, requires public schools, including public charter schools, to provide health education to students. I received the **DC Metro TEEN AIDS Advocacy Award** for my efforts on the Healthy Schools Act.
- In the 1980s, spearheaded changes to the George Washington University's **policy of antidiscrimination to include sexual discrimination.**
- At GW Law, participate in special programs (such as welcoming new admittees) aimed at LGBTQ Students
- Awarded the **GLAA Distinguished Service Award** in 2018