



COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF COUNCILMEMBER BROOKE PINTO
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W., SUITE 106
WASHINGTON, D.C. 20004

June 28, 2023

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, I, along with Chairman Mendelson and Councilmembers Allen, Henderson, Parker, Lewis George, R. White, Gray, Bonds, and Nadeau, am introducing the "Removing Barriers and Reducing Stigma to Encourage HIV Prevention Amendment Act of 2023." Please find enclosed a signed copy of the legislation.

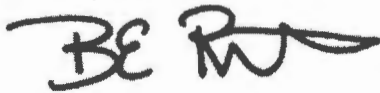
This legislation would encourage uptake of the prescribed use of pre-exposure prophylaxis (an HIV prevention medication commonly called PrEP) and reduce the stigma associated with HIV and HIV prevention medication by prohibiting insurers from factoring the use of PrEP in decisions related to the issuance of disability, life, or long-term care insurance policies. **If insurers are permitted to discriminate against those who use PrEP, it may dissuade enrollees from using PrEP, thus frustrating the District's HIV prevention strategy and negatively impacting public health.**

PrEP, either a once-daily pill under the brand names Truvada or Descovy or a bi-monthly injection under the brand name Apretude, reduces the risk of contracting HIV from sex by more than 90% and by more than 70% among people who inject drugs when used as directed. When paired with condoms, the risk of contracting HIV from sex while using PrEP is even lower. PrEP is a vital tool to meet the District's goal to reduce annual new HIV diagnoses to fewer than 130 by 2030. In 2019, the U.S. Preventive Services Task Force (USPSTF), which makes recommendations about preventive care, recommended that clinicians offer PrEP to all individuals at high risk for HIV. Although treatable, HIV is a chronic, incurable condition and can have significant health consequences, particularly when left untreated. Consistent with the recommendations of the USPSTF, the District should enact policies that encourage those at risk for HIV to have access to PrEP.

Over the last few years, insurance commissioners in states such as New York and California have uncovered evidence that life, disability, and long-term care insurance companies denied or limited coverage or charged higher premiums to HIV-negative individuals who use PrEP. In 2019, the Massachusetts Attorney General settled a lawsuit against an insurer after alleging that it discriminated against applicants for life and long-term care insurance based on those applicants' use of PrEP. And in 2019, Representative Adam Schiff (D-California) introduced legislation that would ban such discrimination on the federal level. Although companies in the states with evidence of discrimination have agreed to end such practices, and no such evidence of discrimination has been documented in the District, **by passing this legislation, the Council will put insurance companies on clear notice that such practices will not be tolerated in the District, run contrary to our HIV prevention strategy, and are against our values of equity and fair treatment.**

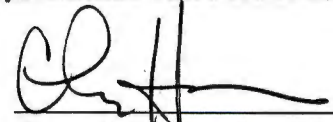
Should you have any questions about this legislation, please contact my Legislative Counsel, Kristin Ewing, at kewing@dccouncil.gov.

Thank you,

A handwritten signature in black ink, appearing to read "BE R" followed by a stylized flourish.

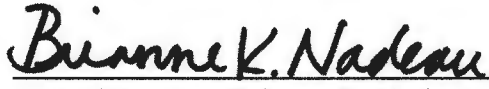
Brooke Pinto

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2 Chairman Phil Mendelson

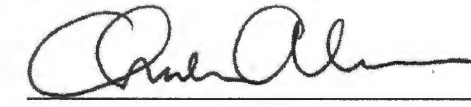
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6 Councilmember Christina Henderson

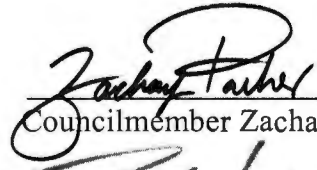
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10 Councilmember Janeese Lewis George

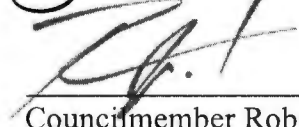
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14 Councilmember Vincent C. Gray


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18 Councilmember Brianne K. Nadeau


Councilmember Brooke Pinto


Councilmember Charles Allen


Councilmember Zachary Parker


Councilmember Robert C. White, Jr.


Councilmember Anita Bonds

21 A BILL

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24 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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30 To amend the Prohibition of Discrimination in the Provision of Insurance Act of 1986 to prohibit
31 insurance companies from factoring the use of pre-exposure prophylaxis in decisions
32 related to the issuance of disability, life, or long-term care insurance policies in order to
33 ensure discrimination doesn't inhibit the use or uptake of preventive medication for HIV
34 and to reduce the stigma associated with HIV and HIV preventive medications.

35
36 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
37 act may be cited as the "Removing Barriers and Reducing Stigma to Encourage HIV Prevention
38 Amendment Act of 2023".

39 Sec. 2. The Prohibition of Discrimination in the Provision of Insurance Act of 1986,
40 effective August 7, 1986 (D.C. Law 6-132; D.C. Official Code § 31-1601 *et seq.*), is amended as
41 follows:

42 (a) Section 2 (D.C. Official Code § 31-1601) is amended by adding a new paragraph (8)
43 to read as follows:

44 “(8) “Pre-exposure Prophylaxis” includes daily oral antiretroviral medication,
45 which has either a fixed-dose combination of tenofovir disoproxil fumarate and emtricitabine or
46 a fixed-dose combination of tenofovir alafenamide and emtricitabine, and extended-release
47 injectable suspension antiretroviral medication with active ingredient cabotegravir.

48 (b) A new section 12 (D.C. Official Code § 31-1611) is added to read as follows:

49 “Sec. 12. Prohibition against discrimination in use of pre-exposure prophylaxis.

50 “(a) No life, disability income, or long-term care insurance policy or contract shall
51 contain any exclusion, reduction, or other limitation of benefits related to the use of pre-exposure
52 prophylaxis when taken pursuant to a valid prescriber’s order.

53 “(b) In reviewing an application for life, disability income, or long-term care
54 insurance, no insurer, or an agent, broker, or employee of the insurer shall factor the use of pre-
55 exposure prophylaxis when taken pursuant to a valid prescriber’s order into a decision regarding:

56 “(1) whether to issue, renew, or cancel a policy;

57 “(2) the rates, premiums, dues, assessments, benefits covered, or expenses
58 reimbursable under the policy; or

59 “(3) The duration or terms of the policy.

60 “(c) In addition to the applicable penalties of section 9 of this chapter, an insurer,
61 or an agent, broker, or employee of the insurer shall be fined not less than \$1,000, and not more
62 than \$10,000 for each violation of this section.

63 Sec. 3. Fiscal impact statement.

64 The Council adopts the fiscal impact statement in the committee report as the fiscal
65 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
66 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

67 Sec. 4. Effective date.

68 This act shall take effect following approval by the Mayor (or in the event of veto by the
69 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
70 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
71 24, 1973 (87 Stat. 788; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
72 Columbia Register.