

Legislation Text

File #: 130224, Version: 1

Amending various titles of The Philadelphia Code to provide for equality of treatment of all persons in the City of Philadelphia regardless of gender identity or sexual orientation, including by further providing for the definition of "Life Partnership" and "Life Partner," and for protections, rights, benefits, and responsibilities of Life Partners; authorizing a tax credit or credits to encourage employers to expand certain health benefits; providing for gender neutrality in certain City forms and online websites; providing for access to public accommodations based upon an individual's gender identity; providing for gender-neutral bathrooms in City-controlled buildings; providing for the right to dress consistently with one's gender identity; ensuring the right of transgender individuals to request name and gender changes on pertinent records; and by other measures; and making conforming changes; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 1 of The Philadelphia Code is hereby amended to read as follows:

TITLE 1. GENERAL PROVISIONS.

CHAPTER 1-100. DEFINITIONS, CONSTRUCTION, PENALTIES AND ENFORCEMENT.

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§ 1-103. Definitions.

(1) Unless otherwise provided in the Code, the following definitions apply:

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(g) *Life Partner. As defined in subsection 9-1102(1)(q).*

(h) *Life Partnership. As defined in subsection 9-1102(1)(r).*

[(g)] (i) Person. ***

[(h)] (j) Whoever. ***

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SECTION 2. Title 4 of The Philadelphia Code is hereby amended to read as follows:

TITLE 4. THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY CODE.

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SUBCODE "PM" (THE PHILADELPHIA PROPERTY MAINTENANCE CODE).

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CHAPTER 2. DEFINITIONS.

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SECTION PM-202.0 GENERAL DEFINITIONS.

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Family: An individual or two or more persons related by blood, marriage, *Life Partnership* or adoption; or a group of three or less unrelated persons, living together as a single housekeeping unit.

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SECTION 3. Title 6 of The Philadelphia Code is hereby amended to read as follows:

TITLE 6. HEALTH CODE.

CHAPTER 6-100. GENERAL PROVISIONS.

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§ 6-102. Definitions.

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(40) Patient. Any person receiving care in any institution, but excluding persons related by blood, *Life Partnership* or marriage to the person in active charge thereof.

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CHAPTER 6-700. MAINTENANCE AND OPERATION OF DISTRICT HEALTH CENTERS.

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§ 6-703. Operation and Function of District Health Centers.

(1) The Health Department shall continue at a minimum to maintain and directly operate a system of at least nine (9) District Health Centers at which each of the following services shall be offered, except one may provide only Sexually Transmitted Disease services, in a manner that makes available to all citizens of the City the following services:

(a) a Family Medical Care Program providing the following pediatric and internal medicine ambulatory services to all [individual and family] enrollees:

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§ 6-705. Non-Discrimination.

All District Health Center services shall be provided without discrimination on the basis of race, religion, color, nationality, national origin, sex, sexual orientation, *gender identity*, age, handicap, type of illness, or financial status.

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SECTION 4. Title 7 of The Philadelphia Code is hereby amended to read as follows:

TITLE 7. HOUSING CODE.

CHAPTER 7-100. INCLUSIONARY AFFORDABLE HOUSING

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§ 7-109. Initial Sale to Eligible Households.

(1) Every affordable dwelling unit required under this Chapter shall be sold or rented only to eligible households, for the buyer or renter's primary residence. One-half of such sales or rentals shall be to families (*or households headed by Life Partners*) with incomes at or below 80% of AMI and the median income of such families shall be 40% of AMI; and one-half of such sales or rentals shall be to families with incomes at or below 125% of AMI and the median income of such families shall be equal to AMI.

SECTION 5. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

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CHAPTER 9-1100. FAIR PRACTICES ORDINANCE: PROTECTIONS AGAINST UNLAWFUL DISCRIMINATION

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§ 9-1102. Definitions.

(1) For purposes of this Chapter the following terms shall have the following meanings:

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(g) Domestic Worker. An individual employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping, or for any other domestic service purpose. Domestic worker does not include any individual who is (.1) working on a casual basis, (.2) engaged in providing companionship services, as defined in Section 213(15)(a) of the Fair

Labor Standards Act of 1938, and who is employed by an employer or agency other than the family or household using his or her services; or (.3) a *Life Partner* or relative through blood, marriage or adoption of the employer or the individual for whom the worker is delivering services under a program funded or administered by federal, state or local government.

(h) Employer. Any person who does business in the City of Philadelphia through employees or who employs one or more employees exclusive of parents, spouse, *Life Partner* or children, including any public agency or authority; any agency, authority or other instrumentality of the Commonwealth; and the City, its departments, boards and commissions.

* * *

(r) Life Partnership. A long-term committed relationship between two unmarried individuals of the same *sex or gender identity* who: (.1) are residents of the City of Philadelphia; or one of whom is employed in the City, owns real property in the City, owns and operates a business in the City, or is a recipient of or has a vested interest in employee benefits from the City of Philadelphia; (.2) are at least 18 years old and competent to contract; (.3) are not related to each other by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania; (.4) have no other Life Partner but the other person; (.5) have not been a member of a different Life Partnership for the past [twelve] *three* months unless the prior Life Partnership ended as a result of the death of the other Life Partner; (.6) agree to share the common necessities of life and to be responsible for each other's common welfare; (.7) share at least one residence with the other Life Partner; and (.8) agree under penalty of law to notify the Commission of any change in the status of the Life Partnership.

(s) Marital Status. The status of being single, married, separated, divorced, widowed, a *Life Partner*, former *Life Partner* or [a] *surviving* Life Partner.

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§ 9-1103. Unlawful Employment Practices.

(1) It shall be an unlawful employment practice to deny or interfere with the employment opportunities of an individual based upon his or her race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, familial status, genetic information, or domestic or sexual violence victim status, including, but not limited to, the following:

* * *

(j) *For any employer to fail to permit employees to dress consistently in accordance with their gender identity.*

(k) *For any employer to fail, upon the request of an individual to change that individual's name or gender on any forms or records under the control of that employer, to make such changes to the extent permitted by law.*

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§ 9-1106. Unlawful Public Accommodations Practices.

(1) It shall be an unlawful public accommodations practice to deny or interfere with the public accommodations opportunities of an individual or otherwise discriminate based on his or her race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, familial status, or domestic or sexual violence victim status, including, but not limited to, the following:

(a) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation to:

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(.4) Refuse, withhold from, or deny any person access to any separate-gender bathroom where the person's gender identity is consistent with the gender for which such bathroom is reserved.

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§ 9-1123. Verification of Life Partnerships.

(1) No Life Partnership shall be recognized as such under this Chapter unless the members of the Life Partnership have verified the Life Partnership by: (i) filing with the Commission a Verification Statement, in the form and manner required by the Commission, which states, on penalty of perjury, that the Life Partnership meets all the provisions of § 9-1102(r) (relating to definition of Life Partnership); and (ii) filing with the Commission proof that the Life Partners have been interdependent for at least three (3) months prior to the date the Verification Statement is filed, such proof to include at least two of the following:

- (a) common ownership of real property or a common leasehold interest in property;
- (b) common ownership of a motor vehicle;
- (c) driver's licenses or other state-issued identification listing a common address;
- (d) proof of joint bank accounts or credit accounts;

(e) proof of designation as a beneficiary for life insurance or retirement benefits, or beneficiary designation under a partner's will;

(f) proof of appointment as attorney-in-fact or agent under a partner's durable power of attorney or health care power of attorney[.];

(g) proof of common legal guardianship of an adopted, foster or dependent child.

(2) The foregoing requirements of proof for interdependency and verification may be changed or modified by the Commission at any time, by regulation.

§ 9-1124. Termination of Life Partnerships.

(1) Either Life Partner may terminate the Life Partnership by filing a sworn Termination Statement with the Commission, in the form and manner required by the Commission, stating that the Life Partnership is

to be terminated. The termination shall become effective sixty (60) days from the date the Termination Statement is filed, if it is signed by both Life Partners. If it is not signed by both Life Partners, the Termination Statement shall become effective sixty (60) days from the date proof is filed with the Commission that a copy of the Termination Statement was served, either personally or by certified or registered mail, on the other Life Partner.

(2) Automatic Termination of Life Partnership. A Life Partnership shall terminate automatically when any member dies or enters into a marriage with another person that is recognized in the Commonwealth of Pennsylvania.

§ 9-1125. Duties of the Commission on Human Relations with Respect to Life Partnerships.

(1) The Commission shall advise all applicants that Life Partnership does not provide the protections afforded by marriage, and shall make such forms and information available to applicants as the Commission deems appropriate on issues that may include, but are not limited to, adoption, medical treatment, and end-of-life decisions, advance health care directives, living wills, durable health care powers of attorney, appointment of a health care agent, guardian designations, and wills; provided that the Commission shall not provide legal advice or services.

(2) The Commission shall review each Verification Statement and, no later than 30 days after receipt of such statement, notify the persons submitting the statement whether the Verification Statement has been accepted or rejected. If the Commission has accepted the Verification Statement, it shall provide the Life Partners with an official document confirming their status as verified Life Partners. If the Commission rejects the Verification Statement, it shall provide an explanation of the reason for that action, and an explanation of the steps required to cure any deficiencies in the Statement.

(3) The Commission may, by regulation, establish and collect from applicants submitting a Verification Statement a reasonable fee to defray the costs of administering the provisions of this Chapter with respect to Life Partnerships. The Commission may reduce or waive the fee upon a showing of financial hardship.

§ 9-1126. Life Partnerships - Responsibilities of Others.

(1) Health care providers.

(a) Health care providers shall allow a patient's Life Partner, and the children of such Life Partner, visitation rights consistent with 42 C.F.R. § 482.13(h). The dependent, foster, or adopted child of the patient's Life Partner shall have the same visitation rights that a child of the patient would have.

(b) In the event that the patient is incapacitated, the Life Partner of the patient shall have the same authority to make health care decisions that a spouse of the patient would have.

(c) If a provider does not require spouses of patients to prove their spousal status, then the provider shall not require Life Partners to prove Life Partner status. If such proof is required, then the provider may accept as proof any evidence of the Life Partnership the provider deems acceptable, provided that the provider shall accept a copy of the official document issued by the Commission pursuant to § 9-1125(2) confirming Life Partner status.

(2) *Funeral providers. The Verification Statement designed by the Commission shall include an optional section in which a Life Partner may designate the other Life Partner as the person authorized to determine the final disposition of the first Life Partner's remains. Funeral providers shall treat such a designation as the authorization required by 20 Pa.C.S.A. § 305 ("Right to dispose of a decedent's remains"). In designing this section of the Verification Statement, the Commission shall ensure that the section complies with all requirements of state law as to form and verification.*

(3) *Visitation rights in City prison facilities. The Prison system shall permit the minor child of an inmate to visit such inmate when accompanied by the inmates' Life Partner on the same basis and same conditions as if the minor child were accompanied by the inmate's spouse. Proof of Life Partnership in the form of a copy of the Verification Statement may be required.*

(4) *Notification of family members. Whenever a City official or employee is directed or authorized to notify "family members" or "next of kin," on behalf of an injured person, such official or employee shall attempt to determine whether the person has a Life Partner and, if so, the official or employee shall include that Life Partner among those notified. The Managing Director or such other official as the Mayor shall designate, shall take steps to ensure that City employees are aware of this responsibility.*

§ 9-1127. *Gender Neutrality in City Forms.*

(1) *Effective one year after the effective date of this Ordinance, all new forms issued by any City department, board, or commission shall not include requests for gender-specific identification. Such forms shall include, for example, the term "Parent/Legal Guardian" instead of "Mother" or "Father." Where it is necessary to request the gender of a person, an option shall be provided for that person to select the option "self-identify" for the person's gender in addition to the options of "male" and "female."*

(2) *Exceptions. Gender neutrality pursuant to subsection (1) shall not be required for a particular form if the Commission or City Solicitor certifies and advises the Department of Records in writing that any of the following circumstances exists:*

(a) *gender-specific information will further the ability of the requesting agency to perform its responsibilities;*

(b) *state or federal law requires the use of gender-specific information;*

(c) *eligibility for funding depends upon the use of gender-specific information;*

(d) *the Commission has determined that, for a reason not listed above, gender-specific data is required, in which case the Commission shall specify the reason for this exception.*

§ [9-1125] 9-1128. *Severability.*

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CHAPTER 9-1700. REQUIRED POLICY FOR EMPLOYERS WITHIN THE CITY OF PHILADELPHIA
REGARDING ASPECTS OF TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS

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§ 9-1702. Definitions.

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(3) Employer. Any person who employs more than three (3) employees exclusive of his parents, spouse, *Life Partner* or children, including any governmental unit, agency or employee as to which the City has power to legislate, but excluding any fraternal, sectarian, charitable or religious organization.

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SECTION 6. Title 10 of The Philadelphia Code is hereby amended to read as follows:

TITLE 10. REGULATION OF INDIVIDUAL CONDUCT AND ACTIVITY

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CHAPTER 10-800. SAFETY

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§ 10-828. Strict Liability for Damages Caused by Certain Firearms.

(1) Definitions.

(a) Smart gun. A firearm which incorporates within its design, and as part of its original manufacture, technology which cannot be readily deactivated and which automatically limits the firearm's operational use so that it may only be fired by the particular individual to whom it is sold, or an immediate family member *or Life Partner* of that individual who is the legal age to purchase a firearm. Such technology may include, but is not limited to, touch memory, automated fingerprint identification systems, and other automatic user identification systems utilizing biometrics, mechanism, and electronic systems.

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SECTION 7. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING

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CHAPTER 14-200. DEFINITIONS

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§ 14-203. Definitions.

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(115) Family.

A person living independently or a group of persons living as a single household unit using housekeeping facilities in common, but not to include more than three persons who are unrelated by blood, marriage, adoption, or foster-child status, *or are not Life Partners*.

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CHAPTER 14-600. USE REGULATIONS

§ 14-601. Use Categories.

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(4) Public, Civic, and Institutional Use Category.

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(c) Day Care.

Uses providing care, protection, and supervision for children or adults for a fee on a regular basis away from their primary residence for less than 24 hours per day. Examples include preschools, nursery schools, Head Start programs, latch key programs, and adult daycare programs. The following are not regulated as day care uses: (i) care given by [guardians or] *guardians*, relatives *or Life Partners* of the children or adults, or (ii) care given away from the primary residence of the children or adults by babysitters or caregivers for fewer than 10 hours per week. For the purposes of the day care use subcategory, the term “relative” shall mean a spouse, parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece, or nephew. The following are day care specific use types:

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SECTION 7.1. Title 16 of The Philadelphia Code is hereby amended to read as follows:

TITLE 16. PUBLIC PROPERTY

CHAPTER 16-100. ACQUISITION OR CONSTRUCTION

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§ 16-104. *Gender-Neutral Bathrooms*.

(1) *Definitions*.

(a) *Gender Identity*. *Shall have the meaning given in § 9-1102(1)*.

(b) *Gender-Neutral Bathroom.* A bathroom that is designated for use by any person or persons, regardless of Gender Identity.

(2) *Gender-Neutral Bathrooms.*

(a) Any new building constructed by the City shall include Gender-Neutral Bathrooms in number and location appropriate to the building's use.

(b) Whenever the City renovates a building that it owns or occupies, or any portion of a building that it owns or occupies, and such renovation includes renovation of bathrooms, Gender-Neutral Bathrooms in number and location appropriate to the use of the building or portion thereof so renovated shall be established.

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SECTION 8. Title 17 of The Philadelphia Code is hereby amended to read as follows:

TITLE 17. CONTRACTS AND PROCUREMENT

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CHAPTER 17-500. GOALS FOR THE PARTICIPATION OF DISADVANTAGED OWNED BUSINESS ENTERPRISES IN CITY CONTRACTS

§ 17-501. Legislative Findings and Policy.

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(2) Policy. It is the policy of the City to foster an environment of inclusion in which all businesses are free to participate in business opportunities and to flourish without the impediments of discrimination. Businesses participating in all City contracts shall do so on a fair and equitable basis. Vendors on City contracts shall not discriminate against any business because of race, color, religion, national origin, sex, sexual orientation, *gender identity*, or disability.

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SECTION 9. Title 19 of The Philadelphia Code is hereby amended to read as follows:

TITLE 19. FINANCE, TAXES AND COLLECTIONS

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CHAPTER 19-2600. BUSINESS INCOME AND RECEIPTS TAXES

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§ 19-2604. Tax Rates, Credits, and Alternative Tax Computation.

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(14) Life Partner and Transgender Care Health Benefits Tax Credits.

(a) This subsection (14) authorizes two tax credits. A business may apply for either credit or for both credits. Eligibility for each credit shall be determined independently.

(b) Eligibility for Life Partner Health Benefits Tax Credit. The Life Partner Health Benefits Tax Credit provided by this subsection (14) shall only be awarded to businesses that meet all of the following criteria:

(i) The business makes health insurance coverage available for the Life Partners of its employees, and children of such Life Partners, on the same basis and to the same extent as such business makes health insurance coverage available for spouses of employees, and children of such spouses.

(ii) During the three tax years immediately prior to the tax year for which the business first claims a credit pursuant to this subsection (14), the business did not make health insurance coverage available for the Life Partners of its employees, and children of such Life Partners, on the same basis and to the same extent as such business made health insurance coverage available for spouses of employees, and children of such spouses.

(c) Eligibility for Transgender Care Health Benefits Tax Credit. The Transgender Care Health Benefits Tax Credit provided by this subsection (14) shall only be awarded to businesses that meet all of the following criteria:

(i) The business makes health insurance coverage available for transgender care on the same basis and to the same extent as the business makes health insurance coverage available for other medically-necessary treatment. For purposes of this Section, the term “transgender care” means medically necessary treatment for gender dysphoria and gender identity disorder, including office visits, laboratory tests, prescription drugs, hormone treatments, counseling, and transitional surgeries necessary for the treatment of either.

(ii) During the three tax years immediately prior to the tax year for which the business first claims a credit pursuant to this subsection (14), the business did not make health insurance coverage available for transgender care on the same basis and to the same extent as such business made health insurance coverage available for other medically necessary treatments.

(d) Application. Application for the Life Partner or Transgender Care Health Benefits Tax Credit shall be on such form or forms as the Department specifies, and shall include documentation that the business meets the eligibility criteria under subsections (14)(b) or (14)(c). Such documentation shall include such evidence of eligibility as the Department may require.

(e) Tax Credit.

(i) For any full tax year in which a business continuously meets the eligibility criteria set forth in subsection (14)(b) or subsection (14)(c), the business shall be eligible to claim a non-refundable tax credit against its business income and receipts tax liability for such tax year as follows:

(1) Life Partner Health Benefits Tax Credit. The lesser of \$4,000 or 25% of the amount expended by the business during the tax year to purchase health benefits for the Life Partners of its employees and the children of such Life Partners.

(2) Transgender Care Health Benefits Tax Credit. The lesser of \$4,000 or 25% of the amount expended by the business during the tax year to include transgender care coverage in the health insurance coverage provided to employees.

(ii) No business may claim a tax credit under this subsection (14) in any year other than as provided in subsection (14)(e)(i)(.1) with respect to the Life Partner Health Benefits Tax Credit, or subsection (14)(e)(i)(.2) with respect to the Transgender Care Health Benefits Tax Credit. No business may claim either of the tax credits under this subsection (14) in more than two years, and, with respect to each credit, such years shall be consecutive.

(iii) In the event that the aggregate amount of tax credits under this subsection (14) to which all businesses are entitled in any tax year under subsection (14)(e)(i) would exceed \$2,000,000, the amount of tax credit awarded to any business under subsection (14)(e)(i) shall instead be computed as follows: (A) obtaining a reduction factor by dividing \$2,000,000 by the aggregate amount of all tax credits sought in that year under subsection (14)(e)(i); and (B) multiplying the amount of the tax credit to which a business would be entitled under subsection (14)(e)(i) by the reduction factor.

(iv) Unused tax credits provided under this subsection (14) may not be carried forward.

(f) Repayment of Credits. A business shall repay any Life Partner Health Benefits tax credits claimed for a tax year pursuant to this subsection (14) if, at any time within three years from the end of such tax year, the business ceases to make health benefits available for the Life Partners of its employees, and children of such Life Partners, on the same basis and to the same extent as the business makes such benefits available for spouses of employees, and children of such spouses. A business shall repay any Transgender Care Health Benefits tax credits claimed for a tax year pursuant to this subsection (14) if, at any time within three years from the end of such tax year, the business ceases to make transgender care benefits available on the same basis and to the same extent as the business makes health insurance coverage available for other medical needs.

(g) Regulations. The Department may issue regulations governing the implementation of this subsection (14), including, but not limited to, the manner in which eligibility under subsections (14)(b) and (14)(c) is determined, and the manner in which subsection (14)(f) is enforced.

(h) Reporting. The Revenue Department shall, by December 31 of each year, submit a written report to the Mayor, the Council President, and the Chief Clerk of Council, summarizing the City's experience during the prior year with the tax credits provided under this subsection (14).

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SECTION 10. Title 20 of The Philadelphia Code is hereby amended as follows:

TITLE 20. OFFICERS AND EMPLOYEES

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CHAPTER 20-300. COMPENSATION AND BENEFITS

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§ 20-309. *Transgender Health Benefits.*

(1) Every health insurance plan offered by the City to officers and employees of the City shall include coverage for treatment of gender dysphoria and gender identity disorder, including medically necessary office visits, laboratory tests, prescription drugs, hormone treatments, counseling, and transitional surgeries necessary for the treatment of either. The coverage required under this Section shall be provided in each plan on terms consistent with the overall scheme of such plan, and consistent with sound administration of health benefits. The City shall commence providing the coverage required under this Section no later than January 1, 2014.

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CHAPTER 20-60. STANDARDS OF CONDUCT AND ETHICS

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§ 20-601. Definitions.

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(9) Immediate Family. A spouse or *Life Partner* residing in the individual's household and minor dependent children of either.

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CHAPTER 20-800. THE W. THACHER LONGSTRETH MEMORIAL SURVIVORS AND DEPENDENTS MEDICAL CARE ORDINANCE

§20-801. Definitions.

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(2) Eligible Family Member. [A spouse or dependent unmarried child under the age of nineteen, or a dependent unmarried child under the age of twenty-three who is a full time student.] *A spouse; a Life Partner; or a dependent, unmarried child of the employee or the employee's Life Partner, where such child is either under the age of nineteen, or under the age of twenty-three and a full-time student.*

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CHAPTER 20-900. HEALTH AND WELFARE BENEFITS FOR PENSIONED EMPLOYEES

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§ 20-902. Continuation of Health and Welfare Benefits for Eligible Family Members.

In the event that a pensioned employee who qualifies for the health and welfare benefits provided for in § 20-801 dies within the five year period, health and welfare benefits for the employee's spouse *or Life Partner* and dependent children *or dependent children of the employee's Life Partner* shall continue for the entire five year period.

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CHAPTER 20-1200. LOBBYING

§ 20-1201. Definitions.

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(14) "Immediate family." An individual's spouse, *Life Partner*, child, *Life Partner's child*, parent, brother, sister and like relative-in-law.

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SECTION 11. Title 21 of The Philadelphia Code is hereby amended as follows:

TITLE 21. MISCELLANEOUS

CHAPTER 21-100. CITY EMBLEMS, COLORS AND AWARDS

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§ 21-105. Hero Awards.

(1) The Council hereby provides that the sum of twenty-five thousand dollars (\$25,000) may be awarded to the surviving spouse *or Life Partner* or dependent children *or dependent children of a Life Partner* or dependent parents of every firefighter, police officer and prosecution detective who is killed in the course of performing a heroic deed which, in the judgment of the Hero Award Committee, involves a special hazard or risk; provided, however, that payments of said sum shall be made at the rate of five hundred dollars (\$500) per month for a period of fifty months, and shall be subject to the provisions of subsection (6).

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(6) The payments provided for in this Section shall be made in the following order of priority:

(a) surviving spouse *or surviving Life Partner*, if the surviving spouse *or surviving Life Partner* was living with deceased at the time of his or her death, or was actually dependent upon him or her at such time; and payments shall continue so long as the surviving spouse remains [unmarried] *single or does not enter into a subsequent Life Partnership*;

(b) dependent children *and dependent children of a Life Partner*, which shall include stepchildren, children to whom deceased stood in loco parentis, and posthumous children;

(c) dependent parents.

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SECTION 12. Title 22 of The Philadelphia Code is hereby amended as follows:

TITLE 22. PUBLIC EMPLOYEES RETIREMENT CODE

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CHAPTER 22-300. RETIREMENT BENEFITS

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§ 22-304.

The unmarried surviving spouse *or single surviving Life Partner* of any retired member of Plan D or Plan X who was married to [the member], *or in a Life Partnership with, the member* for at least two (2) years prior to the member's retirement and who is not receiving or is not eligible to receive any other benefits from the Retirement System shall receive a minimum pension of two hundred and fifty dollars (\$250.00) per month. This pension shall continue until the surviving spouse *or surviving Life Partner* [remarries] *is no longer single* or dies.

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§ 22-306. Retirement and Survivorship Benefit Options.

(1) Election of options. Any member may at any time prior to retirement elect in writing one of the following options pursuant to which retirement benefits and survivorship benefits will be paid.

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Option 4 - With respect to a member of Plan D, Plan J, Plan A, Plan B or Plan X and police and fire members of Plan '10 only, the retired member will receive retirement benefits in the form of an annuity for life. If the retired member elected this option or dies without having elected any option, one-half of the amount of the member's retirement benefit, without reduction, shall be paid to the member's surviving spouse *or surviving Life Partner*, provided that they were married *or Life Partners* at least two (2) years before retirement or the date on which a separated member became eligible to apply for retirement benefits.

Option 5 - Under this option, the member shall choose one of Options 1 through 3 (or, if eligible, Option 4), and in addition, the member shall receive a partial lump sum benefit under the provisions of § 22-312. The member's retirement benefits shall be governed by § 22-312. This Option shall not be available to a member who at any time has elected to participate in the Deferred Retirement Option Plan under § 22-310. A member who elected Option 5 and is subsequently rehired shall not, after such rehire, be eligible to elect Option 5 again, nor be eligible to participate in the Deferred Retirement Option Plan.

Upon the death of the surviving spouse *or surviving Life Partner*, or if there is no surviving spouse *or surviving Life Partner* who qualifies under the previous paragraph, the retirement benefit shall be paid to the dependent children, either natural or adopted, of the deceased member; and to the dependent grandchildren, either natural or adopted, of the deceased member, if the deceased had court ordered or court sanctioned physical and legal custody of the dependent grandchild, until each child or grandchild attains age eighteen (18) or, if any such child or grandchild remains dependent because of physical or mental infirmity, the duration of the infirmity. If there is no eligible child or eligible grandchild, the retirement benefit shall be paid to the dependent parent or parents of the deceased. Upon election of the member at any time during the member's life, any benefit otherwise payable after the member's death to a child or eligible grandchild who remains dependent at the time of the member's death because of physical or mental infirmity may instead be paid to a trust for the benefit of that child or eligible grandchild, so long as the trust meets the following conditions:

* * *

If there is no surviving spouse, *surviving Life Partner*, dependent child or eligible grandchild or parent who qualifies, and the member dies before receiving retirement benefits equal to his or her member contributions, the balance shall be paid to the member's beneficiary.

* * *

(3) Failure to designate survivor. When a member of Plan A, Plan B, Plan L, Plan Y, or Plan '10 retires without designating any survivor and then dies, no further benefits will be paid; provided, however, that if such member is survived by a spouse *or Life Partner* to whom the member had been married *or in a Life Partnership* two (2) years or more, and with whom the member was either living at the time of death, or had one or more children who are under the age of eighteen (18) at the time of the member's death, the member shall be deemed to have designated such spouse *or Life Partner* as the survivor under Option 1.

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§ 22-307. Payment of Retirement Benefit.

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(2) Remaining sums. When a retired member dies and letters testamentary or of administration have not been taken out on the estate of such retired member, the Board may pay any sums remaining due directly to:

- (a) the spouse *or Life Partner*;

* * *

§ 22-309. Application for Benefits.

* * *

(3) Incapacity to apply. In the event any member is unable, by reason of any disability, to make application personally for retirement or other benefits established by this Title, such application may be made

on behalf of the member by a member's spouse, *Life Partner*, parent, son, daughter, brother, sister or legal representative.

* * *

§ 22-501. Service-Connected Death and Health Care Benefits.

* * *

(2) Benefit amount. The service-connected death benefit shall be an amount equal to the total deceased member's contributions to the Retirement System, without interest, together with additional amounts of benefits payable as follows:

(a) A surviving spouse *or surviving Life Partner* who was living with the member or entitled to support from such member at the time of death shall receive an annual benefit equal to sixty percent (60%) of the member's final compensation. If a child or children, under the age of eighteen (18) years also survive the deceased member, each such child shall receive an annual benefit equal to ten percent (10%) of the member's final compensation until such child attains the age of eighteen, but in no event shall the total annual amount paid to the surviving spouse *or surviving Life Partner* and dependent children exceed eighty percent (80%) of the member's final compensation.

(b) If there is no such surviving spouse *or Life Partner*, or [if the] *such* surviving spouse dies [or], remarries *or enters into a Life Partnership* before any surviving child of such deceased member shall have attained the age of eighteen (18) years, *or such surviving Life Partner dies, marries, or re-enters into a Life Partnership*, then each child under such age shall receive an annual benefit equal to twenty-five percent (25%) of the member's final compensation, but in no event shall the total annual benefit so paid in any one (1) year exceed seventy-five percent (75%) of the member's final compensation. If there are more than three (3) surviving children under the age of eighteen (18) years, the children shall receive equal shares of such seventy-five percent (75%) of final compensation. When any such child dies or attains the age of eighteen (18) years, there shall be a redistribution by the Board to the surviving children under such age, but in no event shall any child receive more than twenty-five percent (25%) of the member's final compensation in any one year.

(c) If there is no such surviving spouse *or surviving Life Partner* and there is no child under the age of eighteen (18) years surviving such deceased member, then an amount equal to fifteen percent (15%) of final compensation shall be paid to the surviving father and/or mother, if any, of the deceased member if the Board, after investigation, shall find that such parent or parents were actually dependent upon such deceased member through absence of earning power as the result of disability or old age.

(d) If there is no such surviving spouse, *surviving Life Partner*, child under the age of eighteen (18) years or dependent parent surviving such deceased member, then the ordinary death benefit calculated as provided by § 22-502(2) (Ordinary Death Benefits) shall be payable to the deceased member's beneficiary.

(3) Proof of widowhood, *non-participation in a Life Partnership*, or dependency. Any survivor receiving benefits pursuant to the provisions of § 22-501(2) above, shall, not later than the fifteenth day of January of each year, file with the Board proof of continued widowhood, *non-participation in a Life Partnership*, or dependency, as the case may be. Failure to file such proof shall result in the suspension of benefits until such proof has been filed.

* * *

(5) Service-connected health care benefit. If the Board determines that the death of a Police Employee or Fire Employee who had been a member of Plan A, Plan B, Plan D, Plan X or Plan '10 resulted from the performance of the duties of such member's position, a service-connected health care benefit shall become payable to the survivors of such member as set forth below. The Board shall avail itself of the services of the Medical Panel in making its determination whether the member died as a result of the performance of the duties of the member's position.

(a) The service-connected health care benefit shall consist of regular payments on behalf of the spouse *or Life Partner* and the member's dependent children of the appropriate cost of maintaining medical, dental, optical and pharmaceutical prescription benefits for such beneficiaries at the same benefit level as would have been in force if the deceased member were still alive and employed in the same position as held at the time of death. Payments on behalf of [the] *a spouse shall cease upon remarriage or entry into a Life Partnership . Payments on behalf of a Life Partner shall cease upon marriage or re-entry into a Life Partnership.* Payments on behalf of any surviving child shall cease when the child reaches the age of eighteen (18) years or, if any such child upon attaining age eighteen is and remains dependent because of physical or mental infirmity, the duration of the infirmity or, if the child is enrolled as a full- time undergraduate student, when the child ceases to be so enrolled or attains the age of twenty-two (22) years, whichever occurs first.

* * *

§ 22-502. Ordinary Death Benefits.

* * *

(4) Ordinary death benefit in lieu of service-connected death benefit. If the deceased member's death was a service-connected death, the surviving spouse *or surviving Life Partner* may elect to receive ordinary death benefits in lieu of service- connected death benefits. If the surviving spouse *or surviving Life Partner* shall die before that surviving spouse's *or surviving Life Partner's* dependent child or children reach the age of eighteen (18) years, then the surviving dependent children under the age of eighteen (18) years shall receive equal shares of the annual benefit that the surviving spouse *or surviving Life Partner* had been receiving. When any such child dies or attains the age of eighteen (18) years, there shall be a redistribution by the Board to the surviving dependent child or children under such age.

(5) Conditions. No spouse *or surviving Life Partner* of a member of Plan D, Plan J or Plan X shall be entitled to receive benefits pursuant to this Section unless such spouse *or Life Partner* (a) was married to *or in a Life Partnership with* the deceased member for not less than two (2) full years before the member died, and was living with or entitled to support from such member at the date of death, or (b) was designated in writing as the beneficiary.

* * *

CHAPTER 22-700. BENEFICIARIES AND SURVIVORS

§ 22-701. Designation of Beneficiaries.

(1) Permissible designations. The designation of a member's beneficiaries must be in writing and on file with the Board during the member's employment. A member may designate as beneficiaries only individuals within the following categories:

(a) The spouse *or Life Partner* who either lives with the member at the time of the member's death or is entitled to financial support by the member;

* * *

(d) individuals who are specifically named by the member and who are within any of the following categories:

(.1) stepchild or foster child of the member; or

(.2) *child of the member's Life Partner; or*

[(.2)](.3) child for whom the member stood in loco parentis; or

[(.3)](.4) individual whom the member is legally obligated to support; or

[(.4)](.5) a relative by blood or marriage *or a relative of a Life Partner; or*

[(.5)](.6) any other person as designated by the employee.

* * *

§ 22-702. Designation of Survivors.

(1) Permissible designations. Each member shall make an irrevocable designation of survivors upon retirement. The designation of a member's survivors must be in writing and on file with the Board. A member may designate only the following individuals:

(a) spouse *or Life Partner*;

* * *

(d) individuals who are specifically designated and who are within any of the following categories:

(.1) stepchild or foster child of the member; or

(.2) *child of the member's Life Partner; or*

[(.2)](.3) child for whom the member stood in loco parentis; or

[(.3)](.4) individual whom the member is legally obligated to support; or

[(.4)](.5) a relative by blood or marriage *or a relative of a Life Partner; or*

[(.5)](.6) any other person as designated by the employee.

* * *

CHAPTER 22-900. CONTRIBUTIONS

* * *

§ 22-904. Direct Rollover.

* * *

(2) Definitions.

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(b) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Tax Code, an individual retirement annuity described in Section 408(b) of the Tax Code, an annuity plan described in Section 403(a) of the Tax Code, or a qualified trust described in Section 401(a) of the Tax Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse *or surviving Life Partner*, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(c) Distributee. A distributee includes a member and a member's spouse *or Life Partner*. The member's surviving spouse *or Life Partner* and the member's former spouse *or Life Partner* who is the alternative payee under an approved domestic relations order, as determined under § 22-1303, are distributees with regard to the interest of the spouse *or Life Partner*, or former spouse *or Life Partner*.

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CHAPTER 22-1400. DEFINED CONTRIBUTION PLAN

* * *

§ 22-1402. Definitions.

In addition to the definitions set forth in §§ [\(1\)](http://www.amlegal.com/nxt/gateway.dll?f=id$Id=The%20Philadelphia%20Code%3Ar%3Ad0a$cid=pennsylvania$t=document-frame.htm$an=JD_1-103$3.0) and [\(2\)](http://www.amlegal.com/nxt/gateway.dll?f=id$Id=The%20Philadelphia%20Code%3Ar%3A75ab$cid=pennsylvania$t=document-frame.htm$an=JD_22-105$3.0) of the Code, the following definitions apply to this Chapter.

* * *

(4) Eligible Retirement Plan. Any of the following: (a) an individual retirement account described in Tax Code Section 408(a); (b) an individual retirement annuity described in Tax Code Section 408(b); (c) an annuity plan described in Tax Code Section 403(a); (d) a qualified trust described in Tax Code Section 401(a);

(e) an annuity contract described in Tax Code Section 403(b); and (f) an eligible plan under Tax Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, and which accepts the Member's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the non-spousal *or non-Life Partner* beneficiary of a member, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.

* * *

SECTION 13. It is the intent of the Council that Life Partners should be possessed of all rights and responsibilities, consonant with the relationship that Life Partners undertake with each other, that the City can lawfully confer. Therefore, the Mayor and any City officials or employees designated by the Mayor, are hereby authorized to take all lawful steps necessary to achieve this goal, whether by recommending legislation to Council, revising regulations, issuing executive orders, negotiating collective bargaining provisions, or otherwise. Within one year of the date this Ordinance becomes law, the Commission on Human Relations, or such other official or agency as the Mayor may designate, shall submit to the Council President and Chief Clerk of Council a comprehensive schedule of ordinances, regulations, executive orders, and existing collective bargaining provisions that the Commission finds materially conflict with the goals set forth in this Section. Such report shall further include proposals to ameliorate such conflicts, and an estimate of the costs of implementing such proposals.

SECTION 14. Severability. If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

SECTION 15. This Ordinance shall take effect immediately, with the following exception: The provisions establishing the Life Partner and Transgender Care Health Benefits Tax Credits (to be incorporated as Section 19-2604(14) of the Code) shall take effect beginning with Tax Year 2013.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.