

**HOUSE . . . . . No.**

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The Commonwealth of Massachusetts

PRESENTED BY:

**Carl M. Sciortino, Jr., Benjamin B. Downing**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to gender based discrimination and hate crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Carl M. Sciortino, Jr.	34th Middlesex
Benjamin B. Downing	

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1722 OF 2007-2008.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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### AN ACT RELATIVE TO GENDER BASED DISCRIMINATION AND HATE CRIMES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 32 of chapter 22C of the General Laws, as appearing in the 2004 Official Edition,  
2 is hereby amended by striking out the third paragraph and inserting in place thereof the following  
3 paragraph:-

4 "Hate crime", any criminal act coupled with overt actions motivated by bigotry and bias including, but not  
5 limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious,  
6 ethnic, handicap, gender, sexual orientation, or gender identity or expression prejudice, or which  
7 otherwise deprives another person of his constitutional rights by threats, intimidation or coercion, or  
8 which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or  
9 intimidation. Hate crime shall also include, but not be limited to, acts that constitute violations of  
10 sections thirty-seven and thirty-nine of chapter two hundred and sixty-five, section one hundred and  
11 twenty-seven A of chapter two hundred and sixty-six and chapter two hundred and seventy-two.

12 SECTION 2. Section 39 of chapter 265 of the General Laws, as so appearing, is hereby amended by  
13 striking out subsection (a), and inserting in place thereof the following subsection:-

14 (a) Whoever commits an assault or a battery upon a person or damages the real or personal property of a  
15 person with the intent to intimidate such person because of such person's race, color, religion, national  
16 origin, sexual orientation, or disability or gender identity or expression shall be punished by a fine of not  
17 more than five thousand dollars or by imprisonment in a house of correction for not more than two and

18 one-half years, or by both such fine and imprisonment. The court may also order restitution to the victim  
19 in any amount up to three times the value of property damage sustained by the owners of such property.  
20 For the purposes of this section, the term “disability” shall have the same meaning as “handicap” as  
21 defined in subsection 17 of section one of chapter one hundred and fifty-one B; provided, however, that  
22 for purposes of this section, the term “disability” shall not include any condition primarily resulting from  
23 the use of alcohol or a controlled substance as defined in section one of chapter ninety-four C. For the  
24 purposes of this section, the term “gender identity or expression” shall have the same meaning as that  
25 term is defined in subsection 24 of section one of chapter one hundred and fifty-one B.

26 SECTION 3. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby amended by  
27 striking out subsection (f), and inserting in place thereof the following subsection:-

28 (f) The board of education shall establish the information needed in an application for the approval of a  
29 charter school; provided, however, that said application shall include but not be limited to a description  
30 of: (1) the method for admission to a charter school; (2) the mission, purpose, innovation and specialized  
31 focus of the proposed charter school; (3) procedures for teacher evaluation and professional development  
32 for teachers and administrators; (4) the school governance and bylaws; (5) the financial plan for the  
33 operation of the school; (6) the educational program, instructional methodology and services to be offered  
34 to students; (7) the number and qualifications of teachers and administrators to be employed; (8) the  
35 organization of the school in terms of ages of students or grades to be taught along with an estimate of the  
36 total enrollment of the school; (9) the provision of school facilities and pupil transportation; and (10) a  
37 statement of equal educational opportunity which shall state that charter schools shall be open to all  
38 students, on a space available basis, and shall not discriminate on the basis of race, color, national origin,  
39 creed, sex, gender identity or expression, ethnicity, sexual orientation, mental or physical disability, age,  
40 ancestry, athletic performance, special need, or proficiency in the English language, and academic  
41 achievement. In the case of a Horace Mann charter school, the application shall include a statement of the  
42 non-instructional services which will continue to be provided by the local school district. There shall be  
43 no application fee for admission to a charter school.

44 SECTION 4. Said section 89 of said chapter 71 is hereby further amended by striking out subsection (l),  
45 as so appearing, and inserting in place thereof the following subsection:-

46 (l) Charter schools shall be open to all students, on a space available basis, and shall not discriminate on  
47 the basis of race, color, national origin, creed, sex, gender identity or expression, ethnicity, sexual  
48 orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency  
49 in the English language or a foreign language, and academic achievement. Charter schools may limit  
50 enrollment to specific grade levels and may structure curriculum around particular areas of focus such as  
51 mathematics, science, or the arts.

52 SECTION 5. Section 5 of chapter 76 of the General Laws, as so appearing, is hereby amended by  
53 striking out the last sentence and inserting in place thereof the following sentence:- No person shall be  
54 excluded from or discriminated against in admission to a public school of any town, or in obtaining the  
55 advantages, privileges and courses of study of such public school on account of race, color, sex, gender  
56 identity or expression, religion, national origin or sexual orientation.

57 SECTION 6. Subsection (j) of section 12B of said chapter 76, as so appearing, is hereby amended by  
58 striking out the first sentence and inserting in place thereof the following sentence:- (j) School committees  
59 may establish terms for accepting non-resident students; provided, however, that if the number of non-  
60 resident students applying for acceptance to said district exceeds the number of available seats, said  
61 school committee shall select students for admission on a random basis; provided, further, that said school  
62 committee shall conduct said random selection twice: one time prior to July first and one time prior to  
63 November first; provided, further, that no school committee shall discriminate in the admission of any  
64 child on the basis of race, color, religious creed, national origin, sex, gender identity or expression, age,  
65 sexual orientation, ancestry, athletic performance, physical handicap, special need or academic  
66 performance or proficiency in the English language.

67 SECTION 7. Section 1 of chapter 151B of the General Laws, as so appearing, is hereby amended by  
68 inserting after subsection 23 the following subsection:-

69 24. The term "gender identity or expression" shall mean a gender-related identity, appearance, expression,  
70 or behavior of an individual, regardless of the individual's assigned sex at birth.

71 SECTION 8. Subsection 6 of section 3 of chapter 151B of the General Laws, as so appearing, is hereby  
72 further amended by striking out the first sentence and inserting in place thereof the following sentence:-  
73 To receive, investigate and pass upon complaints of unlawful practices, as hereinafter defined, alleging  
74 discrimination because of the race, color, religious creed, national origin, sex, gender identity or  
75 expression, sexual orientation, which shall not include persons whose sexual orientation involves minor  
76 children as the sex object, age, ancestry or handicap of any person alleging to be a qualified handicapped  
77 person.

78 SECTION 9. Said section 3 of said chapter 151B, as so appearing, is hereby further amended by striking  
79 out the third sentence of subsection 8 and inserting in place thereof the following sentence:- To the extent  
80 reasonably possible the members of each board shall include representatives of owners and brokers of  
81 residential property; major lending and credit institutions; major private employers; a local personnel or  
82 civil service administrator; local post-secondary educational institutions; local labor organizations;  
83 minority racial, ethnic and linguistic groups; women; people of diverse gender identities or expressions;  
84 elderly and handicapped persons; and recipients of public assistance.

85 SECTION 10. Said section 3 of said chapter 151B, as so appearing, is hereby further amended by  
86 striking out subsection 9 and inserting in place thereof the following subsection:-

87 9. To issue such publication and such results of investigations and research as in its judgment will tend to  
88 promote good will and minimize or eliminate discrimination because of the race, color, religious creed,  
89 national origin, sex, gender identity or expression, sexual orientation, which shall not include persons  
90 whose sexual orientation involves minor children as the sex object, age, genetic information or ancestry.

91 SECTION 11. Section 4 of said chapter 151B is hereby amended by striking out subsection 1, as so  
92 appearing, and inserting in place thereof the following subsection:-

93 1. For an employer, by himself or his agent, because of the race, color, religious creed, national origin,  
94 sex, gender identity or expression, sexual orientation, which shall not include persons whose sexual  
95 orientation involves minor children as the sex object, genetic information, or ancestry of any individual to  
96 refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate  
97 against such individual in compensation or in terms, conditions or privileges of employment, unless based  
98 upon a bona fide occupational qualification.

99 SECTION 12. Said section 4 of said chapter 151B is hereby further amended by striking out subsection  
100 2, as so appearing, and inserting in place thereof the following subsection:-

101 2. For a labor organization, because of the race, color, religious creed, national origin, sex, gender identity  
102 or expression, sexual orientation, which shall not include persons whose sexual orientation involves  
103 minor children as the sex object, age, genetic information, or ancestry of any individual, or because of the  
104 handicap of any person alleging to be a qualified handicapped person, to exclude from full membership  
105 rights or to expel from its membership such individual or to discriminate in any way against any of its  
106 members or against any employer or any individual employed by an employer unless based upon a bona  
107 fide occupational qualification.

108 SECTION 13. Said section 4 of said chapter 151B is hereby further amended by striking out subsection  
109 3, as so appearing, and inserting in place thereof the following subsection:-

110 3. For any employer or employment agency to print or circulate or cause to be printed or circulated any  
111 statement, advertisement or publication, or to use any form of application for employment or to make any  
112 inquiry or record in connection with employment, which expresses, directly or indirectly, any limitation,  
113 specification or discrimination as to the race, color, religious creed, national origin, sex, gender identity or  
114 expression, sexual orientation, which shall not include persons whose sexual orientation involves minor  
115 children as the sex object, age, genetic information or ancestry, or the handicap of a qualified  
116 handicapped person or any intent to make any such limitation, specification or discrimination, or to

117 discriminate in any way on the ground of race, color, religious creed, national origin, sex, gender identity  
118 or expression, sexual orientation, age, genetic information, ancestry or the handicap of a qualified  
119 handicapped person, unless based upon a bona fide occupational qualification.

120 SECTION 14. Said section 4 of said chapter 151B is hereby further amended by striking out subsection  
121 3A, as so appearing, and inserting in place thereof the following subsection:-

122 3A. For any person engaged in the insurance or bonding business, or his agent, to make any inquiry or  
123 record of any person seeking a bond or surety bond conditioned upon faithful performance of his duties or  
124 to use any form of application in connection with the furnishing of such bond, which seeks information  
125 relative to the race, color, religious creed, national origin, sex, gender identity or expression, sexual  
126 orientation, which shall not include persons whose sexual orientation involves minor children as the sex  
127 object, genetic information, or ancestry of the person to be bonded.

128 SECTION 15. Subsection 3B of said section 4 of said chapter 151B, as so appearing, is hereby amended  
129 by inserting after the word "sex", in line 103, the words:- , gender identity or expression.

130 SECTION 16. Said section 4 of said chapter 151B is hereby further amended by striking out subsection  
131 3C, as so appearing, and inserting in place thereof the following subsection:-

132 3C. For any person to deny another person access to, or membership or participation in, a multiple listing  
133 service, real estate brokers' organization, or other service, organization, or facility relating to the business  
134 of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such  
135 access, membership, or participation, on account of race, color, religion, sex, gender identity or  
136 expression, sexual orientation which shall not include persons whose sexual orientation involves minor  
137 children as the sex object, children, national origin, genetic information, ancestry, age, or handicap.

138 SECTION 17. Said section 4 of said chapter 151B is hereby further amended by striking out the first  
139 paragraph of subsection 6, as so appearing, and inserting in place thereof the following paragraph:-

140 6. For the owner, lessee, sublessee, licensed real estate broker, assignee or managing agent of publicly  
141 assisted or multiple dwelling or contiguously located housing accommodations or other person having the  
142 right of ownership or possession or right to rent or lease, or sell or negotiate for the sale of such  
143 accommodations, or any agent or employee of such a person, or any organization of unit owners in a  
144 condominium or housing cooperative: (a) to refuse to rent or lease or sell or negotiate for sale or  
145 otherwise to deny to or withhold from any person or group of persons such accommodations because of  
146 the race, religious creed, color, national origin, sex, gender identity or expression, sexual orientation,  
147 which shall not include persons whose sexual orientation involves minor children as the sex object, age,  
148 genetic information, ancestry, or marital status of such person or persons or because such person is a

149 veteran or member of the armed forces, or because such person is blind, or hearing impaired or has any  
150 other handicap; (b) to discriminate against any person because of his race, religious creed, color, national  
151 origin, sex, gender identity or expression, sexual orientation, which shall not include persons whose  
152 sexual orientation involves minor children as the sex object, age, ancestry, or marital status or because  
153 such person is a veteran or member of the armed forces, or because such person is blind, or hearing  
154 impaired or has any other handicap in the terms, conditions or privileges of such accommodations or the  
155 acquisitions thereof, or in the furnishings of facilities and services in connection therewith, or because  
156 such a person possesses a trained dog guide as a consequence of blindness, or hearing impairment; (c) to  
157 cause to be made any written or oral inquiry or record concerning the race, religious creed, color, national  
158 origin, sex, gender identity or expression, sexual orientation, which shall not include persons whose  
159 sexual orientation involves minor children as the sex object, age, genetic information, ancestry or marital  
160 status of the person seeking to rent or lease or buy any such accommodation, or concerning the fact that  
161 such person is a veteran or a member of the armed forces or because such person is blind or hearing  
162 impaired or has any other handicap. The word "age" as used in this subsection shall not apply to persons  
163 who are minors nor to residency in state-aided or federally-aided housing developments for the elderly  
164 nor to residency in housing developments assisted under the federal low income housing tax credit and  
165 intended for use as housing for persons 55 years of age or over or 62 years of age or over, nor to  
166 residency in communities consisting of either a structure or structures constructed expressly for use as  
167 housing for persons 55 years of age or over or 62 years of age or over if the housing owner or manager  
168 register biennially with the department of housing and community development. For the purpose of this  
169 subsection, housing intended for occupancy by persons fifty-five or over and sixty-two or over shall  
170 comply with the provisions set forth in 42 USC 3601 et seq.

171 SECTION 18. Said section 4 of said chapter 151B is hereby further amended by striking out subsection  
172 7, as so appearing, and inserting in place thereof the following subsection:-

173 7. For the owner, lessee, sublessee, real estate broker, assignee or managing agent of other covered  
174 housing accommodations or of land intended for the erection of any housing accommodation included  
175 under subsection 10, 11, 12, or 13 of section one, or other person having the right of ownership or  
176 possession or right to rent or lease or sell, or negotiate for the sale or lease of such land or  
177 accommodations, or any agent or employee of such a person or any organization of unit owners in a  
178 condominium or housing cooperative: (a) to refuse to rent or lease or sell or negotiate for sale or lease or  
179 otherwise to deny or withhold from any person or group of persons such accommodations or land because  
180 of race, color, religious creed, national origin, sex, gender identity or expression, sexual orientation,  
181 which shall not include persons whose sexual orientation involves minor children as the sex object, age,  
182 genetic information, ancestry, or marital status, veteran status or membership in the armed forces,  
183 blindness, hearing impairment, or because such person possesses a trained dog guide as a consequence of

184 blindness or hearing impairment or other handicap of such person or persons; (b) to discriminate against  
185 any person because of his race, color, religious creed, national origin, sex, gender identity or expression,  
186 sexual orientation, which shall not include persons whose sexual orientation involves minor children as  
187 the sex object, age, genetic information, ancestry, or marital status, veteran status or membership in the  
188 armed services, blindness, or hearing impairment or other handicap, or because such person possesses a  
189 trained dog guide as a consequence of blindness or hearing impairment in the terms, conditions or  
190 privileges of such accommodations or land or the acquisition thereof, or in the furnishing of facilities and  
191 services in the connection therewith or (c) to cause to be made any written or oral inquiry or record  
192 concerning the race, color, religious creed, national origin, sex, gender identity or expression, sexual  
193 orientation, which shall not include persons whose sexual orientation involves minor children as the sex  
194 object, age, genetic information, ancestry, marital status, veteran status or membership in the armed  
195 services, blindness, hearing impairment or other handicap or because such person possesses a trained dog  
196 guide as a consequence of blindness or hearing impairment, of the person seeking to rent or lease or buy  
197 any such accommodation or land; provided, however, that this subsection shall not apply to the leasing of  
198 a single apartment or flat in a two family dwelling, the other occupancy unit of which is occupied by the  
199 owner as his residence. The word "age" as used in this subsection shall not apply to persons who are  
200 minors nor to residency in state-aided or federally-aided housing developments for the elderly nor to  
201 residency in housing developments assisted under the federal low income housing tax credit and intended  
202 for use as housing for persons 55 years of age or over or 62 years of age or over, nor to residency in  
203 communities consisting of either a structure or structures constructed expressly for use as housing for  
204 persons 55 years of age or over or 62 years of age or over if the housing owner or manager register  
205 biennially with the department of housing and community development. For the purpose of this  
206 subsection, housing intended for occupancy by persons fifty-five or over and sixty-two or over shall  
207 comply with the provisions set forth in 42 USC 3601 et seq.

208 SECTION 19. Said section 4 of said chapter 151B, as so appearing, is hereby further amended by  
209 striking out subsection 7B and inserting in place thereof the following subsection:-

210 7B. For any person to make print, or publish, or cause to be made, printed, or published any notice,  
211 statement or advertisement, with respect to the sale or rental of multiple dwelling, contiguously located,  
212 publicly assisted or other covered housing accommodations that indicates any preference, limitation, or  
213 discrimination based on race, color, religion, sex, gender identity or expression, sexual orientation which  
214 shall not include persons whose sexual orientation involves minor children as the sex object, national  
215 origin, genetic information, ancestry, children, marital status, public assistance recipiency, or handicap or  
216 an intention to make any such preference, limitation or discrimination except where otherwise legally  
217 permitted.

218 SECTION 20. Said section 4 of said chapter 151B, as so appearing, is hereby further amended by  
219 striking out subsection 8 and inserting in place thereof the following subsection:-

220 8. For the owner, lessee, sublessee, or managing agent of, or other person having the right of ownership or  
221 possession of or the right to sell, rent or lease, commercial space: (1) To refuse to sell, rent, lease or  
222 otherwise deny to or withhold from any person or group of persons such commercial space because of  
223 race, color, religious creed, national origin, sex, gender identity or expression, sexual orientation, which  
224 shall not include persons whose sexual orientation involves minor children as the sex object, age, genetic  
225 information, ancestry handicap or marital status of such person or persons. (2) To discriminate against  
226 any person because of his race, color, religious creed, national origin, sex, gender identity or expression,  
227 sexual orientation, which shall not include persons whose sexual orientation involves minor children as  
228 the sex object, age, genetic information, ancestry, handicap or marital status in the terms, conditions or  
229 privileges of the sale, rental or lease of any such commercial space or in the furnishing of facilities or  
230 services in connection therewith. (3) To cause to be made any written or oral inquiry or record concerning  
231 the race, color, religious creed, national origin, sex, gender identity or expression, sexual orientation,  
232 which shall not include persons whose sexual orientation involves minor children as the sex object, age,  
233 genetic information, ancestry, handicap or marital status of a person seeking to rent or lease or buy any  
234 such commercial space. The word "age" as used in this subsection shall not apply to persons who are  
235 minors, nor to residency in state-aided or federally-aided housing developments for the elderly nor to  
236 residency in self-contained retirement communities constructed expressly for use by the elderly and  
237 which are at least twenty acres in size and have a minimum age requirement for residency of at least fifty-  
238 five years.

239 SECTION 21. Said section 4 of said chapter 151B, as so appearing, is hereby further amended by  
240 striking out subsection 13 and inserting in place thereof the following subsection:-

241 13. For any person to directly or indirectly induce, attempt to induce, prevent, or attempt to prevent the  
242 sale, purchase, or rental of any dwelling or dwellings by:

243 (a) implicit or explicit representations regarding the entry or prospective entry into the neighborhood of a  
244 person or persons of a particular age, race, color, religion, sex, gender identity or expression, national or  
245 ethnic origin, or economic level or a handicapped person, or a person having a child, or implicit or  
246 explicit representations regarding the effects or consequences of any such entry or prospective entry;

247 (b) unrequested contact or communication with any person or persons, initiated by any means, for the  
248 purpose of so inducing or attempting to induce the sale, purchase, or rental of any dwelling or dwellings  
249 when he knew or, in the exercise of reasonable care, should have known that such unrequested solicitation  
250 would reasonably be associated by the persons solicited with the entry into the neighborhood of a person

251 or persons of a particular age, race, color, religion, sex, gender identity or expression, national or ethnic  
252 origin, or economic level or a handicapped person, or a person having a child;

253 (c) implicit or explicit false representations regarding the availability of suitable housing within a  
254 particular neighborhood or area, or failure to disclose or offer to show all properties listed or held for sale  
255 or rent within a requested price or rental range, regardless of location; or

256 (d) false representations regarding the listing, prospective listing, sale, or prospective sale of any  
257 dwelling.

258 SECTION 22. Subsection 14 of said section 4 of said chapter 151B, as so appearing, is hereby amended  
259 by inserting after the word "sex", in line 492, the words:- , gender identity or expression.

260 SECTION 23. Subsection 18 of said section 4 of said chapter 151B, as so appearing, is hereby amended  
261 by striking out the last sentence and inserting in place thereof the following sentence:- Nothing contained  
262 in this chapter or in any rule or regulation issued by the commission shall be interpreted as requiring any  
263 employer, employment agency or labor organization to grant preferential treatment to any individual or to  
264 any group because of the race, color, religious creed, national origin, sex, gender identity or expression,  
265 sexual orientation, which shall not include persons whose sexual orientation involves minor children as  
266 the sex object, age, genetic information or ancestry of such individual or group because of imbalance  
267 which may exist between the total number or percentage of persons employed by any employer, referred  
268 or classified for employment by any employment agency or labor organization, admitted to membership  
269 or classified by any labor organization or admitted to or employed in, any apprenticeship or other training  
270 program, and the total number or percentage of persons of such race, color, religious creed, national  
271 origin, sex, gender identity or expression, sexual orientation, which shall not include persons whose  
272 sexual orientation involves minor children as the sex object, age, genetic information or ancestry in the  
273 commonwealth or in any community, section or other area therein, or in the available work force in the  
274 commonwealth or in any of its political subdivisions.

275 SECTION 24. Section 92A of chapter 272 of the General Laws, as so appearing, is hereby amended by  
276 striking out the first paragraph and inserting in place thereof the following paragraph:-

277 No owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public  
278 accommodation, resort or amusement shall, directly or indirectly, by himself or another, publish, issue,  
279 circulate, distribute or display, or cause to be published, issued, circulated, distributed or displayed, in any  
280 way, any advertisement, circular, folder, book, pamphlet, written or painted or printed notice or sign, of  
281 any kind or description, intended to discriminate against or actually discriminating against persons of any  
282 religious sect, creed, class, race, color, denomination, sex, gender identity or expression, sexual  
283 orientation, which shall not include persons whose sexual orientation involves minor children as the sex

284 object, nationality, or because of deafness or blindness, or any physical or mental disability, in the full  
285 enjoyment of the accommodations, advantages, facilities or privileges offered to the general public by  
286 such places of public accommodation, resort or amusement.

287 SECTION 25. Said section 92A of said chapter 272, as so appearing, is hereby further amended by  
288 striking out the second paragraph and inserting in place thereof the following paragraph:-

289 A place of public accommodation, resort or amusement within the meaning hereof shall be defined as and  
290 shall be deemed to include any place, whether licensed or unlicensed, which is open to and accepts or  
291 solicits the patronage of the general public and, without limiting the generality of this definition, whether  
292 or not it be (1) an inn, tavern, hotel, shelter, roadhouse, motel, trailer camp or resort for transient or  
293 permanent guests or patrons seeking housing or lodging, food, drink, entertainment, health, recreation or  
294 rest; (2) a carrier, conveyance or elevator for the transportation of persons, whether operated on land,  
295 water or in the air, and the stations, terminals and facilities appurtenant thereto; (3) a gas station, garage,  
296 retail store or establishment, including those dispensing personal services; (4) a restaurant, bar or eating  
297 place, where food, beverages, confections or their derivatives are sold for consumption on or off the  
298 premises; (5) a rest room, barber shop, beauty parlor, bathhouse, seashore facilities or swimming pool,  
299 except such rest room, bathhouse or seashore facility as may be segregated on the basis of sex; (6) a  
300 boardwalk or other public highway; (7) an auditorium, theatre, music hall, meeting place or hall,  
301 including the common halls of buildings; (8) a place of public amusement, recreation, sport, exercise or  
302 entertainment; (9) a public library, museum or planetarium; or (10) a hospital, dispensary or clinic  
303 operating for profit; provided, however, that with regard to the prohibition on sex discrimination, this  
304 section shall not apply to a place of exercise for the exclusive use of persons of the same sex which is a  
305 bona fide fitness facility established for the sole purpose of promoting and maintaining physical and  
306 mental health through physical exercise and instruction, if such facility does not receive funds from a  
307 government source, nor to any corporation or entity authorized, created or chartered by federal law for the  
308 express purpose of promoting the health, social, educational vocational, and character development of a  
309 single sex; provided, further, that with regard to the prohibition of sex discrimination, those  
310 establishments which rent rooms on a temporary or permanent basis for the exclusive use of persons of  
311 the same sex shall not be considered places of public accommodation and shall not apply to any other part  
312 of such an establishment. The exceptions to the prohibitions of sex discrimination stated herein shall only  
313 apply to the extent such places of public accommodation, resort or amusement allow persons the full  
314 enjoyment of the accommodations consistent with an individual's gender identity or expression.

315 SECTION 26. Section 98 of chapter 272 of the General Laws, as so appearing, is hereby amended by  
316 striking out the first sentence and inserting in place thereof the following sentence:- Whoever makes any  
317 distinction, discrimination or restriction on account of race, color, religious creed, national origin, sex,  
318 gender identity or expression, sexual orientation, which shall not include persons whose sexual

319 orientation involves minor children as the sex object, deafness, blindness or any physical or mental  
320 disability or ancestry relative to the admission of any person to, or his treatment in any place of public  
321 accommodation, resort or amusement, as defined in section ninety-two A, or whoever aids or incites such  
322 distinction, discrimination or restriction, shall be punished by a fine of not more than twenty-five hundred  
323 dollars or by imprisonment for not more than one year, or both, and shall be liable to any person  
324 aggrieved thereby for such damages as are enumerated in section five of chapter one hundred and fifty-  
325 one B; provided, however, that such civil forfeiture shall be of an amount not less than three hundred  
326 dollars; but such person so aggrieved shall not recover against more than one person by reason of any one  
327 act of distinction, discrimination or restriction.

328 SECTION 27. Section 56 of chapter 6 of the General Laws, as so appearing, is hereby amended by  
329 striking out the last paragraph and inserting in place thereof the following paragraph:-

330 The governor shall appoint an advisory board to the commission, consisting of not less than twenty-one  
331 persons, who shall serve at his pleasure. The members of said board shall include representatives of each  
332 of the local or regional advisory boards; owners and brokers of residential property; major lending and  
333 credit institutions; major private employers; a designee of the civil service commission; post-secondary  
334 educational institutions; major labor organizations; minority racial, ethnic and linguistic groups; women;  
335 people of diverse gender identities or expressions; elderly and handicapped persons; and recipients of  
336 public assistance. The board shall advise the commission and the governor on matters of policy affecting  
337 the commission, and shall review the implementation of the commission's programs and policies and  
338 from time to time report their conclusions to the commission and the governor. The board shall coordinate  
339 the activities of the local or regional advisory boards appointed pursuant to subsection 8 of section three  
340 of chapter one hundred and fifty-one B. The governor shall from time to time designate one member as  
341 chairman. The members of the board shall not be compensated for their services, but they shall be  
342 reimbursed for travel and other expenses necessary for the performance of their duties. The commission  
343 may provide technical and clerical assistance to the advisory board.

344 SECTION 28. Section 67 of chapter 3 of the General Laws, as so appearing, is hereby amended by  
345 striking out the section title and inserting in place thereof the following section title:- § 67. Commission  
346 on gay, and lesbian, bisexual and transgender youth; membership; terms; powers and duties

347 SECTION 29. Said section 67 of said chapter 3, as so appearing, is hereby further amended by striking  
348 out subsection (a) and inserting in place thereof the following subsection:-

349 (a) There shall be a permanent commission on gay, and lesbian, bisexual and transgender youth, which  
350 shall consist of 27 persons as follows: 3 persons appointed by the Massachusetts chapter of the National  
351 Association of Social Workers, 3 persons appointed by the Massachusetts Coalition for Suicide

352 Prevention, 2 persons appointed by the Fenway Community Health Center, 4 persons appointed by the  
353 Greater Boston Parents, Families and Friends of Lesbians and Gays, 2 persons appointed by the  
354 Massachusetts Gay and Lesbian Political Caucus, 1 person appointed by MassEquality, 1 persons  
355 appointed by the Massachusetts Teachers Association, 1 persons appointed by AFT Massachusetts, 3  
356 persons appointed by the Massachusetts Chapter of the American Academy of Pediatrics, 2 persons  
357 appointed by the Gay, Lesbian and Straight Education Network of Boston, 2 persons appointed by the  
358 Massachusetts Public Health Association, and 3 persons appointed by the Massachusetts Association of  
359 School Superintendents. The membership of the commission shall include at least 1 parent of a gay, and  
360 lesbian, bisexual or transgender person; 1 high school student; 1 college student; 1 representative from  
361 an educational institution; and 1 representative of the mental health professions. Members of the  
362 commission shall be drawn from diverse racial, ethnic, religious, age, sexual-orientation, gender identity  
363 or expression and socio-economic backgrounds from throughout the commonwealth. Members shall be  
364 considered special state employees for purposes of chapter 268A of the General Laws. The commission  
365 shall be an independent agency of the commonwealth and shall not be subject to the control of any other  
366 department or agency.

367 SECTION 30. Said section 67 of said chapter 3, as so appearing, is hereby further amended by striking  
368 out subsection (b)(3) and inserting in place thereof the following subsection:-

369 (3) Appointments shall be made in consultation with gay, and lesbian, bisexual and transgender  
370 organizations. Nominations shall be solicited between August 1 and November 1 of each year through an  
371 open application process using a uniform application that is widely distributed throughout the state.

372 SECTION 31. Said section 67 of said chapter 3, as so appearing, is hereby further amended by striking  
373 out subsection (c) and inserting in place thereof the following subsection:-

374 (c) The commission shall investigate the use of resources from both the public and private sectors to  
375 enhance and improve the ability of state agencies to provide services to gay, and lesbian, bisexual and  
376 transgender youth. In furtherance of that responsibility, the commission shall: (1) work in partnership  
377 with the department of education and the department of public health to create school-based and  
378 community-based programs focusing on suicide prevention, violence intervention, and the promotion of  
379 zero-tolerance policies regarding harassment and discrimination against gay, and lesbian, bisexual and  
380 transgender youth; and (2) make recommendations about policies and programs supporting gay, and  
381 lesbian, bisexual and transgender youth on an ongoing basis to the department of education, the  
382 department of public health and the executive office of health and human services. The commission shall  
383 annually, on or before June 2, report the results of its findings and activities of the preceding year and  
384 make recommendations relating to the concerns of gay, and lesbian, bisexual and transgender youth to the  
385 governor and to the clerks of the senate and house of representatives.