

Legislative Brief

An Act Relative to Transgender Equal Rights H 502/S764

House Bill filed by Rep. Carl Sciortino & Rep. Byron Rushing

Senate Bill filed by Sen. Benjamin Downing & Sen. Sonia Chang-Diaz

Summary and Background

The Transgender Equal Rights Bill would add “gender identity and expression” to existing Massachusetts civil rights laws, which currently prohibit discrimination on the basis of age, race, creed, color, national origin, sexual orientation, sex, and marital status in the areas of employment, housing, public accommodations, education, and credit. The bill would also add offenses regarding gender identity or expression to the list of offenses that are subject to treatment as hate crimes. The bill defines gender identity and expression as “a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s physiology or assigned sex at birth.” This is consistent with the Massachusetts Commission Against Discrimination’s past decisions, as well as Boston’s 2002 transgender anti-discrimination ordinance.

What does “gender identity” and “gender expression” mean?

Gender identity is one’s internal, personal sense of being a man or a woman. Most people don’t experience a difference between their sex and their gender identity. For transgender people, however, the sex they were born as and their own internal sense of gender identity do not match. Therefore, transgender people will change their gender to match their internal sense of themselves. Gender expression refers to how a person expresses their gender identity, or the cues people use to identify another person’s gender. This can include clothing, makeup, behavior, speech patterns, and mannerisms. Some people’s gender expression does not conform with traditional gender stereotypes of how men or women should look or act.

Why is it needed?

Transgender people in Massachusetts frequently encounter unequal treatment in employment, schools, housing, public accommodations, and access to health care. They also report high incidences of violence and harassment. During a 10-month period in 2009 and 2010, MTPC and other organizations that serve transgender people received 297 calls from transgender men and women seeking assistance. Callers ranged from a man who had been fired from his job after he was outed as transgender, to a woman who’d been attacked with a beer bottle by passersby who called her a “freak” as she walked down the street. According to a national transgender discrimination survey released this year, 58 percent of Massachusetts respondents experienced verbal harassment or mistreatment in public accommodations like hotels, restaurants, buses, airports and government agencies because they are transgender. Seventy-six percent experienced harassment or mistreatment on the job.

Is MA the first to include "gender identity or expression" in non-discrimination law?

No. Nationwide, **15 states, Washington D.C., and 136 cities and counties** (including Boston, Cambridge, Amherst, and Northampton) have passed non-discrimination laws or ordinances protecting people on this basis. States included are: California, Colorado, Connecticut, Hawaii, Illinois, Maine, Minnesota, New Jersey, New Mexico, Rhode Island, Vermont, Iowa, Oregon, Washington, and Nevada.

Furthermore, many employers based in Massachusetts and others that are operating in Massachusetts have already adopted non-discrimination policies that include gender identity and expression. These businesses include Bank of America, Beth Israel Medical Center, John Hancock Financial Services, Mass. Mutual Financial, Microsoft, Prudential Financial, and Harvard Pilgrim Health Care.

Is MA the first to include "gender identity or expression" in hate crimes law?

No. 10 states and Washington D.C. have included gender identity and gender expression in hate crimes laws: California, Colorado, Connecticut, Hawaii, Maryland, Minnesota, Missouri, New Mexico, Pennsylvania, and Vermont. Additionally, the *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act* adds sexual orientation, gender identity, gender and disability to existing Federal law.

What do the governor’s two executive orders related to gender identity and expression do?

These orders prohibit discrimination based on gender identity and expression. They cover 43,500 executive branch employees. Additionally, 652 statewide and department-specific contracts linked to over 13,500 active vendors are impacted by these orders. However, a statewide bill is necessary to protect all residents from discrimination.



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Political
Coalition
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