

**HOUSE . . . . . No. 1728**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
\_\_\_\_\_

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  
2 Official Edition, is hereby amended by striking out the third paragraph and inserting in place  
3 thereof the following paragraph:--

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

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

15 (a) Whoever commits an assault or a battery upon a person or damages the real or  
16 personal property of a person with the intent to intimidate such person because of such person's  
17 race, color, religion, national origin, sexual orientation, or disability or gender identity or  
18 expression shall be punished by a fine of not more than five thousand dollars or by imprisonment  
19 in a house of correction for not more than two and one-half years, or by both such fine and  
20 imprisonment. The court may also order restitution to the victim in any amount up to three times  
21 the value of property damage sustained by the owners of such property. For the purposes of this  
22 section, the term "disability" shall have the same meaning as "handicap" as defined in subsection  
23 17 of section one of chapter one hundred and fifty-one B; provided, however, that for purposes  
24 of this section, the term "disability" shall not include any condition primarily resulting from the  
25 use of alcohol or a controlled substance as defined in section one of chapter ninety-four C. For  
26 the purposes of this section, the term "gender identity or expression" shall have the same  
27 meaning as that term is defined in subsection 24 of section one of chapter one hundred and fifty-  
28 one B.

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

31 (f) The board of education shall establish the information needed in an application for the  
32 approval of a charter school; provided, however, that said application shall include but not be  
33 limited to a description of: (1) the method for admission to a charter school; (2) the mission,  
34 purpose, innovation and specialized focus of the proposed charter school; (3) procedures for  
35 teacher evaluation and professional development for teachers and administrators; (4) the school  
36 governance and bylaws; (5) the financial plan for the operation of the school; (6) the educational  
37 program, instructional methodology and services to be offered to students; (7) the number and

38 qualifications of teachers and administrators to be employed; (8) the organization of the school in  
39 terms of ages of students or grades to be taught along with an estimate of the total enrollment of  
40 the school; (9) the provision of school facilities and pupil transportation; and (10) a statement of  
41 equal educational opportunity which shall state that charter schools shall be open to all students,  
42 on a space available basis, and shall not discriminate on the basis of race, color, national origin,  
43 creed, sex, gender identity or expression, ethnicity, sexual orientation, mental or physical  
44 disability, age, ancestry, athletic performance, special need, or proficiency in the English  
45 language, and academic achievement. In the case of a Horace Mann charter school, the  
46 application shall include a statement of the non-instructional services which will continue to be  
47 provided by the local school district. There shall be no application fee for admission to a charter  
48 school.

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

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

57 SECTION 5. Section 5 of chapter 76 of the General Laws, as so appearing, is hereby  
58 amended by striking out the last sentence and inserting in place thereof the following sentence:--  
59 No person shall be excluded from or discriminated against in admission to a public school of any

60 town, or in obtaining the advantages, privileges and courses of study of such public school on  
61 account of race, color, sex, gender identity or expression, religion, national origin or sexual  
62 orientation.

63 SECTION 6. Subsection (j) of section 12B of said chapter 76, as so appearing, is hereby  
64 amended by striking out the first sentence and inserting in place thereof the following sentence:--

65 (j) School committees may establish terms for accepting non-resident students; provided,  
66 however, that if the number of non-resident students applying for acceptance to said district  
67 exceeds the number of available seats, said school committee shall select students for admission  
68 on a random basis; provided, further, that said school committee shall conduct said random  
69 selection twice: one time prior to July first and one time prior to November first; provided,  
70 further, that no school committee shall discriminate in the admission of any child on the basis of  
71 race, color, religious creed, national origin, sex, gender identity or expression, age, sexual  
72 orientation, ancestry, athletic performance, physical handicap, special need or academic  
73 performance or proficiency in the English language.

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

76 24. The term “gender identity or expression” shall mean a gender-related identity,  
77 appearance, expression, or behavior of an individual, regardless of the individual’s assigned sex  
78 at birth.

79 SECTION 8. Subsection 6 of section 3 of chapter 151B of the General Laws, as so  
80 appearing, is hereby further amended by striking out the first sentence and inserting in place  
81 thereof the following sentence:-- To receive, investigate and pass upon complaints of unlawful

82 practices, as hereinafter defined, alleging discrimination because of the race, color, religious  
83 creed, national origin, sex, gender identity or expression, sexual orientation, which shall not  
84 include persons whose sexual orientation involves minor children as the sex object, age, ancestry  
85 or handicap of any person alleging to be a qualified handicapped person.

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

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

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

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

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

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

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

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

122           3. For any employer or employment agency to print or circulate or cause to be printed or  
123 circulated any statement, advertisement or publication, or to use any form of application for  
124 employment or to make any inquiry or record in connection with employment, which expresses,

125 directly or indirectly, any limitation, specification or discrimination as to the race, color,  
126 religious creed, national origin, sex, gender identity or expression, sexual orientation, which shall  
127 not include persons whose sexual orientation involves minor children as the sex object, age,  
128 genetic information or ancestry, or the handicap of a qualified handicapped person or any intent  
129 to make any such limitation, specification or discrimination, or to discriminate in any way on the  
130 ground of race, color, religious creed, national origin, sex, gender identity or expression, sexual  
131 orientation, age, genetic information, ancestry or the handicap of a qualified handicapped person,  
132 unless based upon a bona fide occupational qualification.

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

135 3A. For any person engaged in the insurance or bonding business, or his agent, to make  
136 any inquiry or record of any person seeking a bond or surety bond conditioned upon faithful  
137 performance of his duties or to use any form of application in connection with the furnishing of  
138 such bond, which seeks information relative to the race, color, religious creed, national origin,  
139 sex, gender identity or expression, sexual orientation, which shall not include persons whose  
140 sexual orientation involves minor children as the sex object, genetic information, or ancestry of  
141 the person to be bonded.

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

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

147           3C. For any person to deny another person access to, or membership or participation in, a  
148 multiple listing service, real estate brokers' organization, or other service, organization, or facility  
149 relating to the business of selling or renting dwellings, or to discriminate against such person in  
150 the terms or conditions of such access, membership, or participation, on account of race, color,  
151 religion, sex, gender identity or expression, sexual orientation which shall not include persons  
152 whose sexual orientation involves minor children as the sex object, children, national origin,  
153 genetic information, ancestry, age, or handicap.

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

157           6. For the owner, lessee, sublessee, licensed real estate broker, assignee or managing  
158 agent of publicly assisted or multiple dwelling or contiguously located housing accommodations  
159 or other person having the right of ownership or possession or right to rent or lease, or sell or  
160 negotiate for the sale of such accommodations, or any agent or employee of such a person, or  
161 any organization of unit owners in a condominium or housing cooperative: (a) to refuse to rent or  
162 lease or sell or negotiate for sale or otherwise to deny to or withhold from any person or group of  
163 persons such accommodations because of the race, religious creed, color, national origin, sex,  
164 gender identity or expression, sexual orientation, which shall not include persons whose sexual  
165 orientation involves minor children as the sex object, age, genetic information, ancestry, or  
166 marital status of such person or persons or because such person is a veteran or member of the  
167 armed forces, or because such person is blind, or hearing impaired or has any other handicap; (b)  
168 to discriminate against any person because of his race, religious creed, color, national origin, sex,  
169 gender identity or expression, sexual orientation, which shall not include persons whose sexual



170 orientation involves minor children as the sex object, age, ancestry, or marital status or because  
171 such person is a veteran or member of the armed forces, or because such person is blind, or  
172 hearing impaired or has any other handicap in the terms, conditions or privileges of such  
173 accommodations or the acquisitions thereof, or in the furnishings of facilities and services in  
174 connection therewith, or because such a person possesses a trained dog guide as a consequence  
175 of blindness, or hearing impairment; (c) to cause to be made any written or oral inquiry or record  
176 concerning the race, religious creed, color, national origin, sex, gender identity or expression,  
177 sexual orientation, which shall not include persons whose sexual orientation involves minor  
178 children as the sex object, age, genetic information, ancestry or marital status of the person  
179 seeking to rent or lease or buy any such accommodation, or concerning the fact that such person  
180 is a veteran or a member of the armed forces or because such person is blind or hearing impaired  
181 or has any other handicap. The word "age" as used in this subsection shall not apply to persons  
182 who are minors nor to residency in state-aided or federally-aided housing developments for the  
183 elderly nor to residency in housing developments assisted under the federal low income housing  
184 tax credit and intended for use as housing for persons 55 years of age or over or 62 years of age  
185 or over, nor to residency in communities consisting of either a structure or structures constructed  
186 expressly for use as housing for persons 55 years of age or over or 62 years of age or over if the  
187 housing owner or manager register biennially with the department of housing and community  
188 development. For the purpose of this subsection, housing intended for occupancy by persons  
189 fifty-five or over and sixty-two or over shall comply with the provisions set forth in 42 USC  
190 3601 et seq.

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

193           7. For the owner, lessee, sublessee, real estate broker, assignee or managing agent of  
194 other covered housing accommodations or of land intended for the erection of any housing  
195 accommodation included under subsection 10, 11, 12, or 13 of section one, or other person  
196 having the right of ownership or possession or right to rent or lease or sell, or negotiate for the  
197 sale or lease of such land or accommodations, or any agent or employee of such a person or any  
198 organization of unit owners in a condominium or housing cooperative: (a) to refuse to rent or  
199 lease or sell or negotiate for sale or lease or otherwise to deny or withhold from any person or  
200 group of persons such accommodations or land because of race, color, religious creed, national  
201 origin, sex, gender identity or expression, sexual orientation, which shall not include persons  
202 whose sexual orientation involves minor children as the sex object, age, genetic information,  
203 ancestry, or marital status, veteran status or membership in the armed forces, blindness, hearing  
204 impairment, or because such person possesses a trained dog guide as a consequence of blindness  
205 or hearing impairment or other handicap of such person or persons; (b) to discriminate against  
206 any person because of his race, color, religious creed, national origin, sex, gender identity or  
207 expression, sexual orientation, which shall not include persons whose sexual orientation involves  
208 minor children as the sex object, age, genetic information, ancestry, or marital status, veteran  
209 status or membership in the armed services, blindness, or hearing impairment or other handicap,  
210 or because such person possesses a trained dog guide as a consequence of blindness or hearing  
211 impairment in the terms, conditions or privileges of such accommodations or land or the  
212 acquisition thereof, or in the furnishing of facilities and services in the connection therewith or  
213 (c) to cause to be made any written or oral inquiry or record concerning the race, color, religious  
214 creed, national origin, sex, gender identity or expression, sexual orientation, which shall not  
215 include persons whose sexual orientation involves minor children as the sex object, age, genetic

216 information, ancestry, marital status, veteran status or membership in the armed services,  
217 blindness, hearing impairment or other handicap or because such person possesses a trained dog  
218 guide as a consequence of blindness or hearing impairment, of the person seeking to rent or lease  
219 or buy any such accommodation or land; provided, however, that this subsection shall not apply  
220 to the leasing of a single apartment or flat in a two family dwelling, the other occupancy unit of  
221 which is occupied by the owner as his residence. The word "age" as used in this subsection shall  
222 not apply to persons who are minors nor to residency in state-aided or federally-aided housing  
223 developments for the elderly nor to residency in housing developments assisted under the federal  
224 low income housing tax credit and intended for use as housing for persons 55 years of age or  
225 over or 62 years of age or over, nor to residency in communities consisting of either a structure  
226 or structures constructed expressly for use as housing for persons 55 years of age or over or 62  
227 years of age or over if the housing owner or manager register biennially with the department of  
228 housing and community development. For the purpose of this subsection, housing intended for  
229 occupancy by persons fifty-five or over and sixty-two or over shall comply with the provisions  
230 set forth in 42 USC 3601 et seq.

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

233 7B. For any person to make print, or publish, or cause to be made, printed, or published  
234 any notice, statement or advertisement, with respect to the sale or rental of multiple dwelling,  
235 contiguously located, publicly assisted or other covered housing accommodations that indicates  
236 any preference, limitation, or discrimination based on race, color, religion, sex, gender identity or  
237 expression, sexual orientation which shall not include persons whose sexual orientation involves  
238 minor children as the sex object, national origin, genetic information, ancestry, children, marital

239 status, public assistance recipiency, or handicap or an intention to make any such preference,  
240 limitation or discrimination except where otherwise legally permitted.

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

243 8. For the owner, lessee, sublessee, or managing agent of, or other person having the right  
244 of ownership or possession of or the right to sell, rent or lease, commercial space: (1) To refuse  
245 to sell, rent, lease or otherwise deny to or withhold from any person or group of persons such  
246 commercial space because of race, color, religious creed, national origin, sex, gender identity or  
247 expression, sexual orientation, which shall not include persons whose sexual orientation involves  
248 minor children as the sex object, age, genetic information, ancestry handicap or marital status of  
249 such person or persons. (2) To discriminate against any person because of his race, color,  
250 religious creed, national origin, sex, gender identity or expression, sexual orientation, which shall  
251 not include persons whose sexual orientation involves minor children as the sex object, age,  
252 genetic information, ancestry, handicap or marital status in the terms, conditions or privileges of  
253 the sale, rental or lease of any such commercial space or in the furnishing of facilities or services  
254 in connection therewith. (3) To cause to be made any written or oral inquiry or record concerning  
255 the race, color, religious creed, national origin, sex, gender identity or expression, sexual  
256 orientation, which shall not include persons whose sexual orientation involves minor children as  
257 the sex object, age, genetic information, ancestry, handicap or marital status of a person seeking  
258 to rent or lease or buy any such commercial space. The word "age" as used in this subsection  
259 shall not apply to persons who are minors, nor to residency in state-aided or federally-aided  
260 housing developments for the elderly nor to residency in self-contained retirement communities

261 constructed expressly for use by the elderly and which are at least twenty acres in size and have a  
262 minimum age requirement for residency of at least fifty-five years.

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

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

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

272 (b) unrequested contact or communication with any person or persons, initiated by any  
273 means, for the purpose of so inducing or attempting to induce the sale, purchase, or rental of any  
274 dwelling or dwellings when he knew or, in the exercise of reasonable care, should have known  
275 that such unrequested solicitation would reasonably be associated by the persons solicited with  
276 the entry into the neighborhood of a person or persons of a particular age, race, color, religion,  
277 sex, gender identity or expression, national or ethnic origin, or economic level or a handicapped  
278 person, or a person having a child;

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

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

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

287 SECTION 23. Subsection 18 of said section 4 of said chapter 151B, as so appearing, is  
288 hereby amended by striking out the last sentence and inserting in place thereof the following  
289 sentence:-- Nothing contained in this chapter or in any rule or regulation issued by the  
290 commission shall be interpreted as requiring any employer, employment agency or labor  
291 organization to grant preferential treatment to any individual or to any group because of the race,  
292 color, religious creed, national origin, sex, gender identity or expression, sexual orientation,  
293 which shall not include persons whose sexual orientation involves minor children as the sex  
294 object, age, genetic information or ancestry of such individual or group because of imbalance  
295 which may exist between the total number or percentage of persons employed by any employer,  
296 referred or classified for employment by any employment agency or labor organization, admitted  
297 to membership or classified by any labor organization or admitted to or employed in, any  
298 apprenticeship or other training program, and the total number or percentage of persons of such  
299 race, color, religious creed, national origin, sex, gender identity or expression, sexual orientation,  
300 which shall not include persons whose sexual orientation involves minor children as the sex  
301 object, age, genetic information or ancestry in the commonwealth or in any community, section  
302 or other area therein, or in the available work force in the commonwealth or in any of its political  
303 subdivisions.

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

307 No owner, lessee, proprietor, manager, superintendent, agent or employee of any place  
308 of public accommodation, resort or amusement shall, directly or indirectly, by himself or  
309 another, publish, issue, circulate, distribute or display, or cause to be published, issued,  
310 circulated, distributed or displayed, in any way, any advertisement, circular, folder, book,  
311 pamphlet, written or painted or printed notice or sign, of any kind or description, intended to  
312 discriminate against or actually discriminating against persons of any religious sect, creed, class,  
313 race, color, denomination, sex, gender identity or expression, sexual orientation, which shall not  
314 include persons whose sexual orientation involves minor children as the sex object, nationality,  
315 or because of deafness or blindness, or any physical or mental disability, in the full enjoyment of  
316 the accommodations, advantages, facilities or privileges offered to the general public by such  
317 places of public accommodation, resort or amusement.

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

321 A place of public accommodation, resort or amusement within the meaning hereof shall  
322 be defined as and shall be deemed to include any place, whether licensed or unlicensed, which is  
323 open to and accepts or solicits the patronage of the general public and, without limiting the  
324 generality of this definition, whether or not it be (1) an inn, tavern, hotel, shelter, roadhouse,  
325 motel, trailer camp or resort for transient or permanent guests or patrons seeking housing or

326 lodging, food, drink, entertainment, health, recreation or rest; (2) a carrier, conveyance or  
327 elevator for the transportation of persons, whether operated on land, water or in the air, and the  
328 stations, terminals and facilities appurtenant thereto; (3) a gas station, garage, retail store or  
329 establishment, including those dispensing personal services; (4) a restaurant, bar or eating place,  
330 where food, beverages, confections or their derivatives are sold for consumption on or off the  
331 premises; (5) a rest room, barber shop, beauty parlor, bathhouse, seashore facilities or swimming  
332 pool, except such rest room, bathhouse or seashore facility as may be segregated on the basis of  
333 sex; (6) a boardwalk or other public highway; (7) an auditorium, theatre, music hall, meeting  
334 place or hall, including the common halls of buildings; (8) a place of public amusement,  
335 recreation, sport, exercise or entertainment; (9) a public library, museum or planetarium; or (10)  
336 a hospital, dispensary or clinic operating for profit; provided, however, that with regard to the  
337 prohibition on sex discrimination, this section shall not apply to a place of exercise for the  
338 exclusive use of persons of the same sex which is a bona fide fitness facility established for the  
339 sole purpose of promoting and maintaining physical and mental health through physical exercise  
340 and instruction, if such facility does not receive funds from a government source, nor to any  
341 corporation or entity authorized, created or chartered by federal law for the express purpose of  
342 promoting the health, social, educational vocational, and character development of a single sex;  
343 provided, further, that with regard to the prohibition of sex discrimination, those establishments  
344 which rent rooms on a temporary or permanent basis for the exclusive use of persons of the same  
345 sex shall not be considered places of public accommodation and shall not apply to any other part  
346 of such an establishment. The exceptions to the prohibitions of sex discrimination stated herein  
347 shall only apply to the extent such places of public accommodation, resort or amusement allow



348 persons the full enjoyment of the accommodations consistent with an individual's gender identity  
349 or expression.

350 SECTION 26. Section 98 of chapter 272 of the General Laws, as so appearing, is hereby  
351 amended by striking out the first sentence and inserting in place thereof the following sentence:--  
352 Whoever makes any distinction, discrimination or restriction on account of race, color, religious  
353 creed, national origin, sex, gender identity or expression, sexual orientation, which shall not  
354 include persons whose sexual orientation involves minor children as the sex object, deafness,  
355 blindness or any physical or mental disability or ancestry relative to the admission of any person  
356 to, or his treatment in any place of public accommodation, resort or amusement, as defined in  
357 section ninety-two A, or whoever aids or incites such distinction, discrimination or restriction,  
358 shall be punished by a fine of not more than twenty-five hundred dollars or by imprisonment for  
359 not more than one year, or both, and shall be liable to any person aggrieved thereby for such  
360 damages as are enumerated in section five of chapter one hundred and fifty-one B; provided,  
361 however, that such civil forfeiture shall be of an amount not less than three hundred dollars; but  
362 such person so aggrieved shall not recover against more than one person by reason of any one act  
363 of distinction, discrimination or restriction.

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

367 The governor shall appoint an advisory board to the commission, consisting of not less  
368 than twenty-one persons, who shall serve at his pleasure. The members of said board shall  
369 include representatives of each of the local or regional advisory boards; owners and brokers of

370 residential property; major lending and credit institutions; major private employers; a designee of  
371 the civil service commission; post-secondary educational institutions; major labor organizations;  
372 minority racial, ethnic and linguistic groups; women; people of diverse gender identities or  
373 expressions; elderly and handicapped persons; and recipients of public assistance. The board  
374 shall advise the commission and the governor on matters of policy affecting the commission, and  
375 shall review the implementation of the commission's programs and policies and from time to  
376 time report their conclusions to the commission and the governor. The board shall coordinate the  
377 activities of the local or regional advisory boards appointed pursuant to subsection 8 of section  
378 three of chapter one hundred and fifty-one B. The governor shall from time to time designate one  
379 member as chairman. The members of the board shall not be compensated for their services, but  
380 they shall be reimbursed for travel and other expenses necessary for the performance of their  
381 duties. The commission may provide technical and clerical assistance to the advisory board.

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

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

388 (a) There shall be a permanent commission on gay, and lesbian, bisexual and transgender  
389 youth, which shall consist of 27 persons as follows: 3 persons appointed by the Massachusetts  
390 chapter of the National Association of Social Workers, 3 persons appointed by the Massachusetts  
391 Coalition for Suicide Prevention, 2 persons appointed by the Fenway Community Health Center,

392 4 persons appointed by the Greater Boston Parents, Families and Friends of Lesbians and Gays,  
393 2 persons appointed by the Massachusetts Gay and Lesbian Political Caucus, 1 person appointed  
394 by MassEquality, 1 persons appointed by the Massachusetts Teachers Association, 1 persons  
395 appointed by AFT Massachusetts, 3 persons appointed by the Massachusetts Chapter of the  
396 American Academy of Pediatrics, 2 persons appointed by the Gay, Lesbian and Straight  
397 Education Network of Boston, 2 persons appointed by the Massachusetts Public Health  
398 Association, and 3 persons appointed by the Massachusetts Association of School  
399 Superintendents. The membership of the commission shall include at least 1 parent of a gay, and  
400 lesbian, bisexual or transgender person; 1 high school student; 1 college student; 1  
401 representative from an educational institution; and 1 representative of the mental health  
402 professions. Members of the commission shall be drawn from diverse racial, ethnic, religious,  
403 age, sexual-orientation, gender identity or expression and socio-economic backgrounds from  
404 throughout the commonwealth. Members shall be considered special state employees for  
405 purposes of chapter 268A of the General Laws. The commission shall be an independent agency  
406 of the commonwealth and shall not be subject to the control of any other department or agency.

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

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

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

416 (c) The commission shall investigate the use of resources from both the public and  
417 private sectors to enhance and improve the ability of state agencies to provide services to gay,  
418 and lesbian, bisexual and transgender youth. In furtherance of that responsibility, the  
419 commission shall: (1) work in partnership with the department of education and the department  
420 of public health to create school-based and community-based programs focusing on suicide  
421 prevention, violence intervention, and the promotion of zero-tolerance policies regarding  
422 harassment and discrimination against gay, and lesbian, bisexual and transgender youth; and (2)  
423 make recommendations about policies and programs supporting gay, and lesbian, bisexual and  
424 transgender youth on an ongoing basis to the department of education, the department of public  
425 health and the executive office of health and human services. The commission shall annually, on  
426 or before June 2, report the results of its findings and activities of the preceding year and make  
427 recommendations relating to the concerns of gay, and lesbian, bisexual and transgender youth to  
428 the governor and to the clerks of the senate and house of representatives.