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SENATE . . . . . No. 1687

The Commonwealth of Massachusetts

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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