



## Mass. Makes Transgender a Protected Class

After a nearly party line vote of 115-37 (the Democratic party is currently in the majority in the Massachusetts House by a split of 127 to 33 Republicans), the legislation, known as the Transgender Equal Rights Bill, was passed by the House and sent on to the state senate. Upon being passed by the upper house, the bill was sent to the state's Democratic Governor, Deval Patrick (left), and he signed the measure making it state law.



[Said](#) the Governor: "I think we have hate crimes on the books today," he said. "They, in the case of transgender people, don't go far enough." He continued, calling the matter a "question of human and civil rights."

According to the provisions set forth in the act, no person may be discriminated against on the basis of gender identity. The protection does not extend to the area of public accommodations.

The Associated Press [reported](#) that the provision relating to public accommodations was dropped from the bill after Republican opponents voiced concern over the effect that aspect would have on "single-gender facilities like rest rooms and locker rooms."

Other clauses amend existing "hate crimes" statutes to place transgender persons within the protected class of those whose civil rights are afforded additional importance in the criminal and civil law.

Opponents of the bill fought hard to sever the most controversial clauses from the body of the law. Some saw the elimination of the public accommodations provision as a partial victory for family values.

"It's a victory for the safety, privacy and modesty of women and children who expect to be safe and secure in public bathrooms in the commonwealth," said Kris Mineau, president of the [Massachusetts Family Institute](#).

"I applaud these lawmakers for speaking truth to this issue. They see it for what it is, a special interest boondoggle that does nothing more to protect this minority and in fact opens the doors for a panoply of financial and legal issues for the rest of us to bear," added Mineau.

Republican lawmakers pointed to potential problems for the majority of citizens of the Bay State. As [reported](#) by the *Boston Herald*:

Even with that change, however, some House Republicans argued that the bill could potentially hurt small businesses and lead to a flurry of lawsuits. They argued that businesses would be unable to take any action if an employee suddenly began identifying as a member of the opposite sex, causing customers to become uncomfortable.

"It opens the door for social change that would take away the rights of hardworking men and



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women and parents," said Rep. Marc Lombardo, a freshmen legislator from Billerica.

Before the law passed, Timothy Tracey, a lawyer with the conservative Arizona-based Alliance Defense Fund, testified before the Judiciary Committee that the bill infringes on the religious rights of those who believe that men and women are different.

Said Tracey, "The First Amendment mandates that no individual should be required to affirm, in act, word, or deed, that a man is a woman, or a woman is a man, against their sincerely held religious beliefs. Yet this is precisely what (the bill) will do."

Supporters of the law argue that the time had come to employ the shield of state law in defense of a group suffering from mistreatment in many aspects of everyday life.

For example, Human Rights Campaign President Joe Solmonese said, "The Massachusetts legislature today recognized that transgender residents should be treated equally and protected under the law. The Transgender Equal Rights Bill has languished for years, but today the Legislature sent a clear message of fairness and equality.

Gavi Wolfe of the Massachusetts chapter of the American Civil Liberties Union similarly praised the passage of the law:

"This bill is about giving transgender people an equal shot at obtaining everyday basics we all need — a job, a place to live, an education. It's a major step forward for fairness, and we urge the legislature to pass it right away."

Enactment of this act makes Massachusetts the 16th state to add transgender people to the list of groups officially protected from discrimination.

The opening section of the bill (H. 3810) amends the General Laws of the state of Massachusetts by adding the following clause to Section 7, Chapter 4 of that code:

"Gender identity" shall mean a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, as part of a person's core identity; provided however, gender-related identity shall not be asserted for any improper purpose.

The popularity of political protection of the category of people known as "lesbian, gay, bisexual, and transgender" (LGBT) is undeniable. Connecticut, for example, passed a similar bill in June. Several other states have enacted laws amending existing "hate crimes" statutes to include LGBT people in its definition of the specially separated citizens.

On the federal level, President Barack Obama signed a law in 2009 that expanded the federal hate crimes law to include any crime motivated by "gender, sexual orientation, gender identity, or disability." With his signature, President Obama established the violations of the civil rights of such individuals as more meritorious of legal protection than those of citizens not so categorized.

There is, of course, a necessity of protecting the civil rights of citizens from alienation on the part of government. The chief distinction between other so-called protected classes (e.g., blacks and women) and the transgender community is that one chooses to change one's gender, whereas one's race or birth



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gender is innate and not a matter of personal prerogative.

Just this week, United States Housing And Urban Secretary Shaun Donovan, who has pledged to work to promulgate regulations supporting “marriage equality,” delivered a [keynote speech](#) at the National Center For Transgender Equality's awards ceremony. Secretary Donovan declared, "I'm proud to work for the President who signed the first federal civil rights legislation that includes the words 'sexual orientation' and 'gender identity' into law."

The Massachusetts Transgender Equal Rights Bill is set to take effect on July 1, 2012.

*Photo: Gov. Deval Patrick*



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