

## SENATE BILL SUMMARY

**BILL NO:** S. 764

**TITLE:** An act relative to transgender equal rights

**SPONSOR:** Senator Downing

**COMMITTEE:** Judiciary

**HEARING DATE:** June 8, 2011

**PRIOR HISTORY:** S. 1687 of 2009-10

**CURRENT LAW:** (see the summary below)

### **SUMMARY OF THE PROPOSED LAW:**

This legislation would add "gender identity or expression" -- defined as "a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth" -- to several areas of the Massachusetts General Laws and specifically to our employment, housing, credit, public accommodations, and public non-discrimination laws.

This legislation adds "gender identity or expression" to the definition of a hate crime under Chapter 22C section 32.

In regards to public accommodation laws, this legislation protects a person's gender identity or expression from being discriminated against at any public accommodation, resort, or amusement (i.e. hotel, carrier, restaurant, restroom, theatre etc.). There is an exception carved out for gyms/places of exercise that cater to a single sex only.

**Section 1 of the bill** renames the Commission on Gay and Lesbian Youth (in Section 67 of Chapter 3 of the General Laws) as the Commission on Gay, Lesbian, Bisexual, and Transgender Youth.

**Section 2** further amends Section 67 to make a corresponding change to the membership of the Commission, which currently includes a seat for the "parent of a gay or lesbian person".

**Section 3** further amends Section 67 to add "gender identity or expression" to the list of backgrounds from which diversity in membership of the Commission is required.

**Section 4** further amends Section 67 to replace "gay and lesbian organizations" with "gay, lesbian, bisexual, and transgender organizations" in the requirement that appointments to the Commission be made in consultation with such groups.

**Section 5** further amends Section 67 to replace “gay and lesbian” with “gay, lesbian, bisexual, and transgender” in four other places.

**Section 6** amends Section 56 of Chapter 6 (Massachusetts Commission Against Discrimination), to require that the MCAD’s advisory board include “people of diverse gender identities or expressions” rather than “women”.

**Section 7** amends Section 32 of chapter 22C (definitions applicable to Sections 33-35, regarding hate-crime data), to replace “gender” with “gender identity or expression” in the definition of “hate crime”.

**Section 8** amends Section 89 of Chapter 71 (governing charter schools), to add “gender identity or expression” to the list of criteria which may not be used as the basis for discrimination in admission to a charter school.

**Section 9** makes a corresponding change to Section 5 of Chapter 76, for public schools.

**Section 10** makes a corresponding change to Section 12B of Chapter 76, for acceptance of non-resident students by a school committee.

**Section 11** amends Chapter 151B (Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry or Sex) by adding a new definition: “gender identity or expression” shall mean a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s physiology or assigned sex at birth.

**Section 12** amends Section 3 of Chapter 151B (functions, powers and duties of MCAD) to add discrimination based on gender identity or expression to the MCAD’s purview.

**Section 13** further amends Section 3 of Chapter 151B to make a change corresponding to that of Section 6 of the bill (above).

**Section 14** amends Section 4 of Chapter 151B to add “gender identity or expression” in 22 places listing criteria which may not be used as the basis for discrimination.

**Section 15** amends Section 39 of Chapter 265 to add “gender identity or expression” to the crime of assault or battery for purpose of intimidation, as one of the criteria for that statute’s enhanced punishment.

**Section 16** further amends Section 39 to define “gender identity or expression,” as used in that section (see Section 15 of the bill, above) by reference to sub-section 24 of Section 1 of Chapter 151B (see Section 11 of the bill, above).

**Section 17** amends Section 92A of Chapter 272 (Advertisement, book, notice or sign relative to discrimination; definition of place of public accommodation, resort or amusement) to bar discrimination in public accommodation based on “gender identity or expression.”

**Section 18** further amends Section 92A by providing that notwithstanding the provisions of the section or any other special or general law to the contrary, all otherwise lawfully sex-segregated

facilities, accommodations, resorts and amusements shall grant persons admission to and the full enjoyment of such facilities, accommodations, resorts and amusements consistent with their gender identity or expression.

**Section 19** amends Section 98 of Chapter 272 (Discrimination in admission to, or treatment in, place of public accommodation; punishment; forfeiture; civil right) to make a change corresponding to that of Section 17 of the bill (above).

**Section 20** is a saving clause.