

OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
(617) 725-4000

**DEVAL L. PATRICK**  
GOVERNOR

**TIMOTHY P. MURRAY**  
LIEUTENANT GOVERNOR

June 8, 2011

Senator Cynthia Stone Creem  
State House, Room 405

Representative Eugene O'Flaherty  
State House, Room 136

Re: "An Act Relative to Transgender Equal Rights" House Bill No. 502/Senate Bill No. 764

Dear Senator Creem and Representative O'Flaherty:

I write in support of "An Act Relative to Transgender Equal Rights," House Bill No. 502 and Senate Bill No. 764. This legislation adds "gender identity" and "gender expression" to the Commonwealth's existing non-discrimination laws affecting employment, housing, credit, public accommodations, public education and hate crimes.

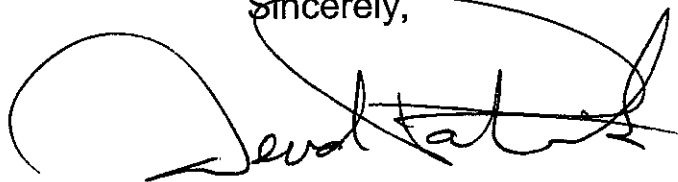
In February of this year, I signed Executive Order 526, which superseded Executive Order 478, to expand the executive branch's policy of non-discrimination, equal opportunity and diversity to include "gender identity or expression" to the list of protected class categories. By including "gender identity or expression" to the list of protected class categories, my administration made a commitment to ensure that transgender individuals will have equal access to executive branch employment as well as executive branch services, programs and activities. However, while I believe the issuance of the Executive Order was an important first step to take, our work remains incomplete. I ask that the Legislature take the next step and modernize state non-discrimination and hate crimes laws to include protections for transgender persons. There is a gap in our laws and it needs to be closed.

Senator Cynthia Stone Creem  
Representative Eugene O'Flaherty  
June 8, 2011  
Page Two

Gender stereotypes continue to delay equality for many, fuel anti-gay and anti-lesbian prejudice, and expose transgender individuals to harassment and discrimination. Passage of this bill will provide a clear, uniform and visible message that hate crimes and discrimination against transgender people or anyone on the basis of his or her gender identity or expression will not be tolerated in our Commonwealth.

Accordingly, I urge prompt passage of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene O'Flaherty". The signature is written in a cursive style with a large, sweeping initial "E" and a long, horizontal stroke extending to the right.



SENATOR  
RICHARD J. ROSS  
MINORITY WHIP

OFFICE OF THE MINORITY WHIP  
MASSACHUSETTS SENATE  
STATE HOUSE, BOSTON, MA 02133-1007

Room 520  
TEL. (617) 722-1555  
FAX (617) 722-1054

RICHARD.ROSS@MASENATE.GOV  
WWW.MASENATE.GOV

NORFOLK, BRISTOL AND  
MIDDLESEX DISTRICT

June 8, 2011

The Honorable Cynthia Stone Creem, Chairman  
The Honorable Eugene L. O'Flaherty, Chairman  
Joint Committee on Joint Committee on the Judiciary  
State House Room 136  
Boston, MA 02133

Dear Chairs,

I am writing asking for your support of House Bill 482, *An Act Relative to a Woman's Right to Know*, of which I am a co-sponsor. I ask the Joint Committee on the Judiciary to report this bill out favorably, so that we may begin debating this important issue.

As a parent I cannot imagine the immense challenge an individual would face when making the choice to end a pregnancy. When such an important and frankly irreversible decision has to be made it is absolutely crucial that all the information be available to those unfortunate enough to be faced with these choices.

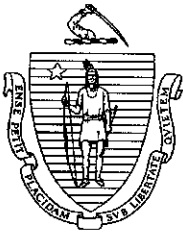
For this reason, and many more, I have co-sponsored this legislation which would provide women seeking an abortion a fully informed choice and a sufficient period of time to reflect on the information they have been provided.

Please do not hesitate to contact my office for further information on the matter.

Sincerely,

A handwritten signature in black ink that reads "Richard J. Ross".

Senator Richard J. Ross



*The Commonwealth of Massachusetts*

DISTRICT ATTORNEY OF SUFFOLK COUNTY  
DANIEL F. CONLEY

One Bulfinch Place, Suite 300  
Boston, MA 02114-2921

Telephone: (617) 619-4000  
Fax: (617) 619-4210

June 8, 2011

The Honorable Cynthia S. Creem  
Senate Chair, Joint Committee on the Judiciary  
State House, Room 405  
Boston, MA 02133

The Honorable Eugene L. O'Flaherty  
House Chair, Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

RE: S.B. 753 and H.B. 2165  
*An Act providing access to scientific and forensic analysis*

Dear Chairwoman Creem and Chairman O'Flaherty:

The Boston Bar Association rightly argues "that for every defendant wrongly convicted, a criminal goes free, and society remains at risk while the individual who has escaped the consequences of his actions is free to commit crimes against other victims." As Suffolk County District Attorney, from first-hand experience, I can attest to the truth of this position.

Early in my tenure as District Attorney, defense attorneys brought a motion for post-conviction DNA testing for a man named Anthony Powell. Powell had been convicted of the rape of a woman in Roxbury that occurred in 1991. As I have in virtually all such cases, I assented to the motion and the testing went ahead. DNA samples that had been recovered were submitted to the FBI's Combined DNA Index System, or CODIS. That testing led to two separate results.

First, the testing led to the exoneration of Anthony Powell, who had served 12 years in prison for the Roxbury rape after his erroneous conviction at a 1992 trial. Second, while the sample did not match Anthony Powell's DNA, it did match another sample in the CODIS database connected to a rape that had also occurred in 1991 in Jamaica Plain. Absent the offender's name, we indicted his unique DNA profile in 2006.



In 2007, an individual named Jerry Dixon was convicted of separate crimes, served a brief period of incarceration, and was required to give a DNA sample because of a 1991 armed robbery conviction. That sample was entered into the CODIS database, which in 2008 connected Dixon to the 1991 rapes in Jamaica Plain and Roxbury. Dixon is in custody and presently awaiting trial.

This case embodies all the reasons we need to update Massachusetts laws with respect to post-conviction DNA testing. If enacted, this legislation will codify many of the practices that I voluntarily put in place nearly a decade ago. These are good practices that serve the interest of justice, both in preventing and correcting erroneous convictions, and in helping to hold the guilty accountable.

Accordingly, I embrace the spirit of this legislation wholeheartedly. At the same time, I urge this Committee and the Legislature as a whole to review and adopt the changes contained in the attached addendum in order that this legislation accomplish its full purpose as espoused by the Boston Bar Association, which is to prevent the possibility of erroneous conviction and ensure that the guilty party is brought to justice.

In addition to the changes I am proposing, I believe this bill would be strengthened immeasurably if we use this opportunity to look at the overall picture of DNA evidence in Massachusetts. The Commonwealth presently lags behind many other states and the Federal government in the strictures imposed on the collection of DNA samples from those who are arrested and charged with serious crimes. It would be in the best interest of justice and public safety to expand CODIS.

For over a century, law enforcement has been collecting fingerprint evidence from individuals arrested for a crime. It makes sense to continue this practice but in full keeping with modern available science, which would include arrestee DNA sampling. While some might regard this as a controversial move, courts all across the country have rightly viewed the taking of a DNA sample at arrest as being no more intrusive than obtaining a fingerprint.

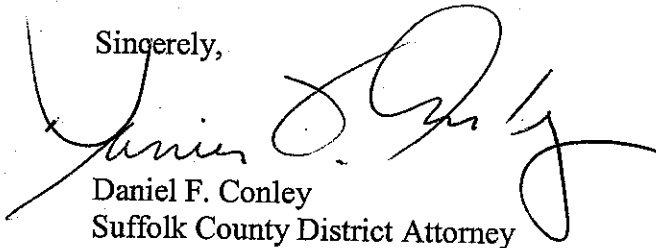
To date, 24 states and the Federal government have adopted versions of Katie's Law, which requires arrestee DNA sampling. Massachusetts, meanwhile, does not permit DNA sampling even for those arrested and charged with murder, burglary, serious sex crimes or any other felony. In fact, Massachusetts remains one of only 13 states that do not even mandate that DNA samples be submitted from those *convicted* of sex crime misdemeanors.

RE: S.B. 753 and H.B. 2165  
Page 3 of 3

As the cases of Anthony Powell and Jerry Dixon make clear, our obligation here cannot end with exonerating those who have been wrongly convicted. The same evidence that exonerates must be used to apprehend and hold the guilty accountable. As other states and the Federal government update their laws in recognition of this new science, and indeed as these changes have been sanctioned by courts all across the country, it is time for Massachusetts to update its own laws to ensure that no one is wrongly convicted and that those who are guilty of serious crimes such as murder and rape are brought to justice.

For these reasons, I wholeheartedly support the spirit of this legislation and respectfully urge the Legislature to adopt the changes outlined in the attached addendum, and to further use this opportunity to adopt Katie's Law as a sensible companion piece to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel F. Conley", written in a cursive style. The signature is positioned above the printed name and title.

Daniel F. Conley  
Suffolk County District Attorney

## ADDENDUM

### Substantive changes needed:

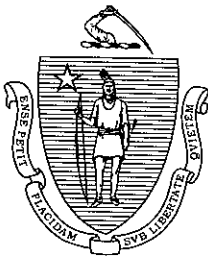
1. The bill does not address obtaining DNA samples from persons other than the defendant. Indeed, the bill explicitly makes simple notice to the victim by the prosecutor voluntary (§ 14). A DNA mismatch between a defendant and non-semen biological material left at the scene begs the question whether the DNA would match the victim or a consensual partner. As written, there is no explicit authorization for obtaining biological samples from such persons or testing them. As a result, the testing would occur just on the defendant's sample and not on other samples that might be necessary for a meaningful result. Instead, the bill should allow the judge to require the provision of necessary samples from third parties and to include testing of these samples.
2. In section 3(c) and section 7(c), the bill creates an undefined right to move for discovery. Indeed, section 7(c) invokes Mass. R. Crim. P. 14 and 17, both rules that apply only to pretrial discovery. Instead, the bill should specify that a defendant (or the Commonwealth) can move for discovery under Mass. R. Crim. P. 30(c)(4), which already creates a well-defined and well-understood mechanism for post-conviction discovery.
3. In section 11(a), the bill requires a defendant with a pending appeal or post-conviction motion to file a motion to request a stay of such proceedings, and requires such stays to be liberally granted. There is no reason to require the defendant to file a motion for a stay or require the court to liberally grant it. Instead, the bill should permit a motion for testing to be considered parallel with any other appeal or post-conviction motion. Appeals, especially of murder cases, already take a substantial amount of time and this testing should not unnecessarily add to a delay of justice.
4. In section 8(e), the bill bans exhaustive testing unless both the defendant and the Commonwealth agree. Instead, the motion judge should be allowed to authorize exhaustive testing. Indeed, exhaustive testing should require the court's approval, even if the parties agree.

### Technical changes needed

1. Section 1 offers definitions for "criminal offender databases" and "inventory" but those terms are not used again.
2. In section 3(d), the bill switches from "factual innocence," defined in section 1, to "actual innocence." As "actual innocence" is a term of art in habeas corpus litigation and does not mean factual innocence, this should be corrected.
3. In section 6(a), the bill requires a hearing. A court should be able to rule on the papers, so "shall" should be replaced with "may."

4. In section 6(c), the bill states that the defendant may move to be present and the Commonwealth shall produce the defendant if the court so orders. This is already the law for all post-conviction hearings. This provision merely adds confusion.
5. In section 7(b)(3), the word "already" is missing from before "been subjected to the requested analysis."
6. In section 3(b)(5), the defendant is required to make a showing regarding why he has not previously requested testing. Section 7(b), however, omits any requirement that the judge make a finding on that issue.
7. In section 12(b), the bill allows a judge to order production of underlying laboratory data. But section 8(d), correctly, makes that mandatory.





# The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**FRANK I. SMIZIK**  
15TH NORFOLK DISTRICT  
ROOM 274, STATE HOUSE

TEL. (617) 722-2676

E-MAIL: Rep.FrankSmizik@hou.state.ma.us

CHAIRMAN  
House Committee on:  
Global Warming and Climate Change

Chairwoman Cynthia Stone Creem  
State House Room 405  
Boston, MA 02133

Chairman Eugene O'Flaherty  
State House Room 136  
Boston, MA 02133

June 8, 2011

Dear Chairwoman Creem, Chairman O'Flaherty, and Honorable Members of the Committee,

I write today to express my opposition to H.482, *An Act Relative to a Woman's Right to Know*. If passed, this bill would force a woman seeking an abortion to delay her medical care and subject her to unnecessary state-scripted "counseling," regardless of her circumstances. This bill is designed to undermine a woman's right to choose and make it more difficult for women to obtain abortions in the state of Massachusetts.

Informed consent requirements already exist in Massachusetts, but this bill would go beyond current requirements, bombarding women with voluminous amounts of information that may be inappropriate or insensitive to a patient's health or circumstance. According to a leading reproductive rights organization, a woman who discovers a severe abnormality during her wanted pregnancy would be offered detailed color photographs, a description of the anatomical and physiological characteristics of the unborn child at two-week gestational increments, and an opportunity to view an ultrasound and hear the heartbeat. This information is designed to manipulate a person's feelings and insert societal pressures into the medical decisions between a doctor and patient. In a similarly insensitive fashion, a victim of rape or incest would have to be told about support obligations of the father.


Furthermore, this bill would significantly delay a patient's access to medical care. Under this legislation, physicians or their agents would be forced to provide women with excessive, state-scripted "counseling" at least 24 hours prior to an abortion. Most women seeking abortions in the Commonwealth must already wait several days – if not a week or more – in order to schedule an



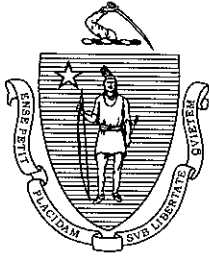
abortion due to the limited number of physicians who offer this care and their concentration in more urban parts of the state. The Massachusetts Medical Society has historically opposed this bill, citing its interference with the doctor-patient relationship and attempts to dictate medical practice.

The Commonwealth of Massachusetts has made great strides in the area of reproductive freedom for women and families. This bill tries to reverse some of the significant and historic progress that has been made over the past few decades. For these reasons, I respectfully encourage you to oppose this legislation and preserve the rights and privileges of women and families in our great state. Thank you for your consideration and please do not hesitate to contact me if you require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank I. Smizik". The signature is written in a cursive style with a horizontal line underneath the name.

Frank I. Smizik  
15<sup>th</sup> Norfolk



*The Commonwealth of Massachusetts*

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**FRANK I. SMIZIK**  
15TH NORFOLK DISTRICT  
ROOM 274, STATE HOUSE

TEL. (617) 722-2676

E-MAIL: Rep.FrankSmizik@hou.state.ma.us

CHAIRMAN  
House Committee on:  
Global Warming and Climate Change

Testimony of Representative Frank I. Smizik  
Presented to the Joint Committee on the Judiciary  
In Support of House Bill 502  
An Act Relative to Transgender Equal Rights

June 8, 2011

**What is the problem:** Transgender people in the Commonwealth suffer unprecedented levels of discrimination and bias-related violence. These individuals frequently find themselves fired, denied housing, refused credit, and barred from medical treatment merely as a result of their gender identity. Many legal measures have been taken in the past to address and prevent discrimination, but no legislation has been passed to date that specifically protects transgender individuals.

**What this bill does:** This bill defines "gender identity or expression" and adds the phrase to numerous sections and chapters of the General Laws. The phrase will be inserted in many sections concerning discrimination of many various minority groups on the basis of physical, emotional, or financial characteristics. The bill addresses discrimination in areas such as employment, housing, acceptance to charter schools, and admission to public schools. It also includes "gender identity or expression" in legislation regarding hate crimes, assault or battery on people, the damaging of personal property, and intimidation. In addition, the bill advocates for increased investigations and research to eliminate discrimination due to gender identity or expression.

**Why this bill is important:** Ultimately, this legislation is about fairness and equality and ensuring that a minority that faces high rates of discrimination and violence is clearly protected under the law. This bill is essential for addressing and preventing the exceptional and appalling discrimination of transgender individuals of the Commonwealth. These legal measures are crucial to ensure that transgender people in Massachusetts are protected from violence and discrimination in various aspects of their lives.

I thank you for your consideration of my testimony and urge the Committee to give House Bill 502 a favorable report.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank I. Smizik", written over a horizontal line.

Frank I. Smizik  
15<sup>th</sup> Norfolk

Kathleen M. Hornby  
107 Yale St  
Medford, MA 02155

June 9, 2011

Representative Eugene L. O'Flaherty  
Joint Committee on the Judiciary, Chair  
State House Room 136  
Boston, MA 02133

Senator Cynthia Stone Creem  
Joint Committee on the Judiciary, Chair  
State House Room 405  
Boston, MA 02133

Dear Chairman O'Flaherty, Chairwoman Creem and Honorable Members of the Committee:

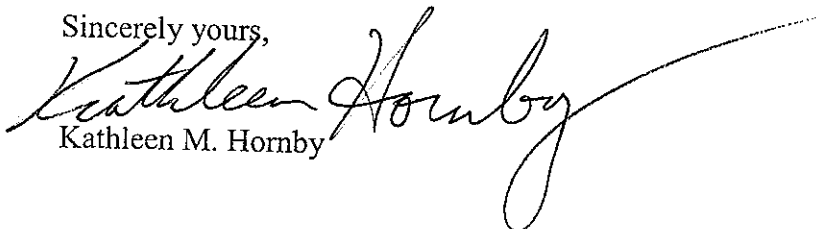
I write in support of House Bill 502, *An Act Relative to Transgender Equal Rights*. The campaign for transgender rights is the civil rights movement of my generation, in my opinion, and it is also a deeply personal cause.

One of my close friends is transgender and transitioned in early adolescence. Just imagine the courage that it took for him to publicly embrace his male identity and become a spokesman for transgender rights in high school. At school forums hosted by the Gay-Straight Alliance, he answered each question – and there were many – with eloquence, unflinching honesty and a disarming sense of humor. I have thought many times since then how incredibly lucky we all were to learn so much about what it means to be transgender. Most people know very little about the challenges, or the joys, of transitioning and living as a transgender individual.

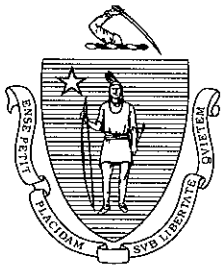
My friend was also lucky. Adults from his mother to the administrators at our high school were accepting if not supportive, and he had steadfast allies and defenders in his friends and teachers. Still, I sometimes worried about him then, and I sometimes worry about him now. We have all heard about transgender youth and adults facing discrimination in almost every aspect of their lives. Even more appalling are the stories of harassment and violence. This is one form of discrimination that is still widely seen as acceptable. H. 502 is a way for the Legislature to change that.

I know that in order for this bill to have any chance of being enacted, it has move out of your Committee and to the House floor as early in the session as possible. Please do everything in your power to make that happen, and thank you very much for your consideration.

Sincerely yours,

  
Kathleen M. Hornby

Cc: Representative Carl M. Sciortino, Jr.



# *The Commonwealth of Massachusetts*

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**DAVID PAUL LINSKY**  
REPRESENTATIVE  
5TH MIDDLESEX DISTRICT  
NATICK - SHERBORN - MILLIS

STATE HOUSE, ROOM 146  
TEL. (617) 722-2575  
FAX (617) 722-2238  
David.Linsky@MAhouse.gov

Committees on:  
Chairman, House Committee on  
Post Audit & Oversight

June 7, 2011

Representative Eugene O'Flaherty, House Chair  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

Senator Cynthia Creem, Senate Chair  
Joint Committee on the Judiciary  
State House, Room 416-B  
Boston, MA 02133

**RE: H 462, *An Act relative to CORI information for Chapter 766 approved private schools***

**H 463, *An Act requiring the inclusion of certain civil rights offense information in the statewide domestic violence recordkeeping system***

**H 1339, *An Act relative to criminal background checks for youth program volunteers***

Dear Chairman O'Flaherty and Chairwoman Creem:

I write to express my support for three bills I filed that are being considered by the Joint Committee on the Judiciary today.

H. 462 would further expand the language of paragraph 29 of Chapter 256 of the Acts of 2010 to allow private special education school programs under chapter 71B to request CORI information from the Department of Criminal Justice Information Services at a national level as well as the state level. Under this bill the schools assume responsibility for any fees associated with their requests from the department. This would allow the private schools the opportunity to do full criminal background checks on prospective employees.

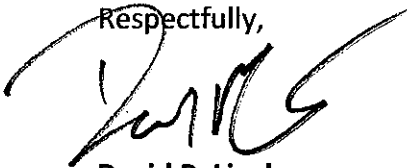
The requirement to obtain a CORI check on job candidates serves public interest of protecting children from adults with criminal backgrounds while in the care of a program providing childcare or residential services. However, under current law, the CORI checks are limited to information on a job candidate's criminal record only within the confines of Massachusetts. On occasion, residential schools have discovered after the fact, that they have employed individuals with criminal histories in other states. H. 462 would close this loophole. Similar language was included in last year's version of the CORI reform bill but it was not included in the Conference Committee report.

H. 463 would update the state-wide domestic violence record keeping system to allow any injunctions issued pursuant to certain civil rights offenses made available to judges and to criminal justice agencies through a recordkeeping system maintained by the executive office of public safety. These civil rights injunctions are currently not part of the domestic violence record keeping system. Civil right offenses should be made available to judges and other public safety officials when considering an injunction to protect someone from domestic abuse.

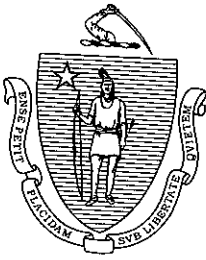
H. 1339 was filed in response to a request of one of the Chiefs of Police in my district. He informed me that he gets asked to perform CORI checks on potential volunteer coaches but is not allowed to under current law. Under current law police departments can only complete criminal histories for three specific purposes; (1)criminal investigations, (2)firearms licensing, and (3) pre-employment law enforcement background investigations. This bill will permit municipal police department, not mandate, to run a criminal history for adult volunteer coaches and other volunteer for youth programs, so that volunteers do not have to pay the \$25 fee.

Thank you in advance for your consideration of these bills. Please do not hesitate to contact me directly if you or your staff have any questions or concerns.

Respectfully,

A handwritten signature in black ink, appearing to read 'David P. Linsky', written over the word 'Respectfully,'.

**David P. Linsky**  
State Representative  
Fifth Middlesex District



*The Commonwealth of Massachusetts*

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**FRANK I. SMIZIK**  
15<sup>TH</sup> NORFOLK DISTRICT  
ROOM 274, STATE HOUSE

TEL. (617) 722-2676

E-MAIL: Rep.FrankSmizik@hou.state.ma.us

CHAIRMAN  
House Committee on:  
Global Warming and Climate Change

Testimony of Representative Frank I. Smizik  
Presented to the Joint Committee on the Judiciary  
In Support of House Bill 502  
An Act Relative to Transgender Equal Rights

June 8, 2011

**What is the problem:** Transgender people in the Commonwealth suffer unprecedented levels of discrimination and bias-related violence. These individuals frequently find themselves fired, denied housing, refused credit, and barred from medical treatment merely as a result of their gender identity. Many legal measures have been taken in the past to address and prevent discrimination, but no legislation has been passed to date that specifically protects transgender individuals.

**What this bill does:** This bill defines "gender identity or expression" and adds the phrase to numerous sections and chapters of the General Laws. The phrase will be inserted in many sections concerning discrimination of many various minority groups on the basis of physical, emotional, or financial characteristics. The bill addresses discrimination in areas such as employment, housing, acceptance to charter schools, and admission to public schools. It also includes "gender identity or expression" in legislation regarding hate crimes, assault or battery on people, the damaging of personal property, and intimidation. In addition, the bill advocates for increased investigations and research to eliminate discrimination due to gender identity or expression.

**Why this bill is important:** Ultimately, this legislation is about fairness and equality and ensuring that a minority that faces high rates of discrimination and violence is clearly protected under the law. This bill is essential for addressing and preventing the exceptional and appalling discrimination of transgender individuals of the Commonwealth. These legal measures are crucial to ensure that transgender people in Massachusetts are protected from violence and discrimination in various aspects of their lives.

I thank you for your consideration of my testimony and urge the Committee to give House Bill 502 a favorable report.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank I. Smizik", written over a horizontal line.

Frank I. Smizik  
15<sup>th</sup> Norfolk





CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR  
THOMAS M. MENINO

June 8, 2011

Representative Eugene O'Flaherty  
Chairman, House Committee on the Judiciary  
Room 136, State House  
Boston, MA 02133

Dear Chairman O'Flaherty:

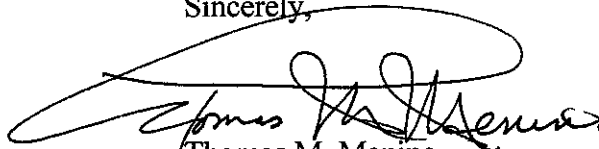
I am writing to ask for your support for HB 502/SB 764, An Act Relative to Transgender Equal Rights, sponsored by Representatives Carl Sciortino and Byron Rushing and Senators Benjamin Downing and Sonia Chang-Diaz. This bill seeks to prohibit discrimination in employment, lending, housing, education, and public accommodations on the basis of a person's gender identity or expression.

In 2002, I signed an ordinance for the City of Boston protecting people against discrimination based on "gender identity or expression." All citizens of the Commonwealth deserve equal protection against discrimination, and I hope that you will help spread that message by supporting this legislation.

Already, ten other states and the District of Columbia have included gender identity and gender expression in hate crime laws. Massachusetts has long been a leader nationally in its protection of the rights of individuals, and this bill is a natural extension to include the rights of transgender individuals.

I urge you to expeditiously report this bill with a favorable report, and I look forward to working with you to secure its passage before the full Legislature. If I may be of any assistance on any matter, please do not hesitate to contact me.

Sincerely,



Thomas M. Menino  
Mayor of Boston





**- FACT SHEET -**

**HOUSE 462**

***An Act Relative to CORI Information for Chapter 766 Approved Private Schools***

**Improve Child Safety Through Enhanced  
Criminal Offender Record Information (CORI) Checks**

**Introduction**

The Massachusetts Association of C. 766 Approved Private Schools (**maaps**) represents 89 private school organizations that have been approved by the Massachusetts Department of Elementary and Secondary Education to provide special education and related services to publicly enrolled and funded students. C. 766 approved private special education residential schools must also obtain a group care license from the Department of Early Education and Care (EEC). DESE and EEC regulations require C766 schools to obtain CORI checks on all job candidates for staff positions that have unsupervised contact with children in the program.

The requirement to obtain a CORI check on job candidates serves a clear public interest of protecting children from adults with criminal backgrounds while enrolled in a C766 approved school. However, the CORI checks presently obtained from the Criminal History Systems Board (CHSB) are limited to information on a job candidate's criminal history within the Commonwealth of Massachusetts. On occasion, C. 766 schools have discovered that they have employed individuals with criminal histories in other states. C. 766 schools performed their due diligence in hiring the individuals by obtaining the CORI checks and conducting their own checks of the candidate's employment history and references.

The limitation of the Massachusetts CORI has the potential of placing students at risks. Recently, the United States Government Accountability Office (GAO) released a report that highlights cases throughout the country that showed that individuals with histories of sexual misconduct that were hired or retained by public and private schools used their new positions as school employees or volunteers to abuse more children.

**Provisions of the Bill**

This bill would require the Department of Criminal Justice Information Services (DCJIS) to provide criminal offender record information from other states for the purposes of criminal background checks for employees and potential employees of chapter 71B approved special education school programs. This requirement would assure that individuals with criminal backgrounds in states other than Massachusetts, such as child abuse or molestation, would be identified and barred from staff positions that are entrusted with the care of children.



**Testimony Submitted by Lauren Burm, Director of Public Advocacy  
Representing the Massachusetts Association of C. 766 Approved Private Schools (maaps)**

**Before the Joint Legislative Committee on the Judiciary  
Wednesday, June 8, 2011**

Good afternoon. My name is Lauren Burm and I serve as **maaps'** Director of Public Advocacy. We represent 91 private day and residential schools approved by the Massachusetts Department of Elementary and Secondary Education under MGL c. 71B (commonly referred to as Chapter 766) to enroll publicly funded students with disabilities. Our members provide highly specialized education and treatment programs to over 6,000 public students from Massachusetts and over 1,500 students from other states and countries, who are the most disabled and disadvantaged in the state, and employ nearly 10,000 staff to provide education services to these public students.

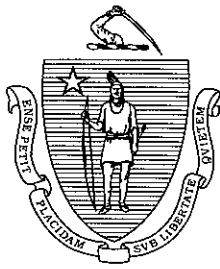
Besides obtaining approval by the Department of Elementary and Secondary Education, C. 766 approved residential schools must also obtain a group care license from the Department of Early Education and Care (EEC). EEC regulates and licenses publicly or privately funded programs providing services to children including day care services, foster care services, residential group care and summer camps. EEC regulations require licensed residential schools to obtain criminal offender record information (CORI) checks on all job candidates for staff positions that have unsupervised contact with children in the program. C. 766 approved residential schools must submit CORI check requests to EEC for processing.

The requirement to obtain a CORI check on job candidates serves a clear public interest of protecting children from adults with criminal backgrounds while in the care of a program providing childcare or residential services. However, the CORI checks presently obtained from the Department of Criminal Justice Information Services (DCJIS) are limited to information on a job candidate's criminal record only within the confines of Massachusetts. On occasion, residential schools have discovered after the fact, that they have employed individuals with criminal histories in other states. These residential schools performed their due diligence in hiring individuals, obtained CORI checks and conducted their own checks of the candidate's employment history and references only to find that the limitations of the Massachusetts' CORI information system placed the children enrolled in the school at risk.

With the sponsorship of Representative David Linksy, **maaps** has filed proposed legislation to address our concerns. H.462 would require DCJIS to provide criminal offender record information from other states for the purposes of criminal background checks for employees and potential employees of chapter 71B approved special education school programs. This requirement would assure that individuals with criminal backgrounds in states other than Massachusetts, such as child abuse or molestation, would be identified and barred from staff positions that are entrusted with the care of children.

Many of the children enrolled in a **maaps** member school have challenges in their physical, developmental or cognitive abilities that would prevent them from protecting themselves or even reporting an awful incident such as abuse. That's why H.462 is so critical. We need to protect the children that can't protect themselves.

On behalf of **maaps'** members, I appreciate the opportunity to testify on this matter before this committee. If you have any questions, please contact me at 781-245-1220 x. 209 or [lburm@maaps.org](mailto:lburm@maaps.org).



# *The Commonwealth of Massachusetts*

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**REPRESENTATIVE  
LIZ MALIA**

11<sup>TH</sup> SUFFOLK DISTRICT

ROOM 33, STATE HOUSE

TEL: (617) 722-2060

FAX: (617) 722-2849

Liz.Malia@mahouse.gov

**CHAIR**

Committee on Mental Health & Substance Abuse

June 8, 2011

Joint Committee on the Judiciary  
Room 136  
State House  
Boston, MA 02133

Dear Chairman O'Flaherty, Chairman Creem, and Honorable Members of the Committee:

Thank you for accepting this testimony in support of three of the bills before you today: House bill 492, An Act relative to the reform of archaic laws implicating certain private consensual intimate conduct between adults, House bill 1336, An Act to protect privacy and personal data, and House bill 2853, An Act to improve the collection and analysis of data relative to traffic stops.

As legislators, in addition to passing new laws, we also have a responsibility to remove bad, inappropriate, or outdated laws from the books. H492 addresses one such law that needs to be fixed, amending section 34 of chapter 272 of the General Laws and repealing section 35 of said chapter 272.

Clearly, one way that various branches and agencies of the government are seeking to prevent terrorism is through large amounts of data collection, on U.S. citizens as well as residents of other countries. In particular, the federal government has given funding to states for the development and operation of large, centralized data-collection outfits. Two of these "fusion centers," as they have been called, are running here in Massachusetts, in a daily process of collecting information on our Commonwealth's residents. "An Act to protect privacy and personal data" would establish some basic safeguards for what data is collected and how it is used.

"An Act to Improve the Collection and Analysis of Data Relative to Traffic Stops" addresses racial profiling in traffic stops. Basic data collection regarding traffic stops would serve as an ongoing reminder to avoid racial profiling in traffic stops, and a way to assess how we are doing in eliminating

such racial profiling. H2853 would codify in our General Laws the requirement that law enforcement shall collect such basic data shall be collected during traffic stops, and that this data shall periodically be compiled and reviewed by a Traffic Data Review Committee.

If you have any questions or would like any further information regarding these three pieces of legislation please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Liz Malia". The signature is written in a cursive style with a long, sweeping underline.

LIZ MALIA

11<sup>TH</sup> SUFFOLK DISTRICT



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston, 02133-1054*

**BRADLEY H. JONES, JR.**

STATE REPRESENTATIVE

MINORITY LEADER

20<sup>th</sup> MIDDLESEX DISTRICT  
READING • NORTH READING  
LYNNFIELD • MIDDLETON  
ROOM 124  
TEL. (617) 722-2100  
Bradley.Jones@MAhouse.gov

June 8, 2011

Senator Cynthia Stone Creem, Senate Chair  
Representative Eugene L. O'Flaherty, House Chair  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

Dear Chairs:

I write to testify on House Bill 2207, *An Act relative to pretexting*, of which I am a sponsor. I strongly urge you to report this bill out favorably.

Pretexting occurs when an identity thief calls up a consumer under the guise of being a legitimate entity and requests information from the consumer. They will know some sort of basic information about you – an address, mother's maiden name, or date of birth (all information that is easily available in public records) – and they will use that to encourage you to tell them more. This is a common method used by private investigators to access people's phone records (to see who has called them and whom they have called), banking records, or utility records.

Currently, there are no specific laws in Massachusetts protecting consumers. On the federal level, the Gramm-Leach-Bliley Act prevents fraudulent access to a consumer's financial records only; however, thus far, federal legislation has not been effective in preventing pretexting. This legislation adds language that requires "prior express permission" for anyone using someone's personal identifying information. This is stronger language than what is currently in statute. It also establishes the illegality of using someone else's personal identifying information to gain access to "any record of actions taken or communications made" – protecting consumers from illegal access to phone bills, utility bills, or banking records etc. This is an important step in updating the laws that protect our citizens from identity theft. In order to remain current with the ever-changing difficulties we face in preventing these types of crimes, we must constantly re-examine our methods of establishing safeguards against identity theft.

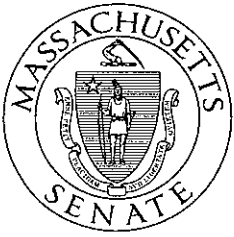
I thank you for your consideration of House Bill 2207 and again express my support for a favorable report.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradley H. Jones, Jr.", written over a printed name and title.

Bradley H. Jones, Jr.  
Minority Leader

BHJ/keh



COMMONWEALTH OF MASSACHUSETTS  
**MASSACHUSETTS SENATE**  
STATE HOUSE, BOSTON, MA 02133-1007

Room 416B  
TEL. (617) 722-1612  
FAX (617) 722-1058

BARRY.FINEGOLD@MASENATE.GOV  
WWW.MASENATE.GOV

SENATOR  
BARRY R. FINEGOLD  
SECOND ESSEX AND MIDDLESEX DISTRICT

JOINT COMMITTEE ON  
ELECTION LAWS,  
CHAIR

JOINT COMMITTEE ON  
HOUSING,  
VICE CHAIR

JOINT COMMITTEE ON  
EDUCATION

JOINT COMMITTEE ON  
HEALTH CARE FINANCING

JOINT COMMITTEE ON  
LABOR AND WORKFORCE  
DEVELOPMENT

SPECIAL JOINT COMMITTEE ON  
REDISTRICTING

June 8, 2011

Chairwoman Cynthia Stone Creem  
State House  
Room 405  
Boston, MA 02133

Dear Chairwoman Creem:

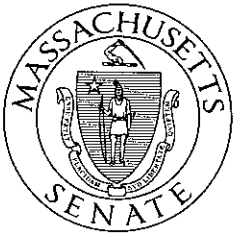
I write in opposition to H. 482, *An Act Relative to a Woman's Right to Know*. While every women should receive full and complete information before she consents to any medical procedure, Massachusetts already has strong laws requiring "informed consent," which ensures that patients be well informed about risks of the procedure and options available to them. Further, there is an additional informed consent law specific to abortion, which requires that a woman be informed about the type of procedure to be used, possible complications, and abortion alternatives.

Thank you for your time and consideration on this matter and I hope you will not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Barry".

Senator Barry R. Finegold  
Second Essex and Middlesex District



COMMONWEALTH OF MASSACHUSETTS  
**MASSACHUSETTS SENATE**  
STATE HOUSE, BOSTON, MA 02133-1007

Room 416B  
TEL. (617) 722-1612  
FAX (617) 722-1058

BARRY.FINEGOLD@MASENATE.GOV  
WWW.MASENATE.GOV

SENATOR  
**BARRY R. FINEGOLD**  
SECOND ESSEX AND MIDDLESEX DISTRICT

JOINT COMMITTEE ON  
ELECTION LAWS,  
CHAIR

JOINT COMMITTEE ON  
HOUSING,  
VICE CHAIR

JOINT COMMITTEE ON  
EDUCATION

JOINT COMMITTEE ON  
HEALTH CARE FINANCING

JOINT COMMITTEE ON  
LABOR AND WORKFORCE  
DEVELOPMENT

SPECIAL JOINT COMMITTEE ON  
REDISTRICTING

June 8, 2011

Chairman Eugene O'Flaherty  
State House  
Room 136  
Boston, MA 02133

Dear Chairman O'Flaherty:

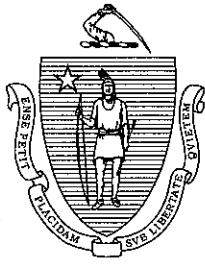
I write in opposition to H. 482, *An Act Relative to a Woman's Right to Know*. While every women should receive full and complete information before she consents to any medical procedure, Massachusetts already has strong laws requiring "informed consent," which ensures that patients be well informed about risks of the procedure and options available to them. Further, there is an additional informed consent law specific to abortion, which requires that a woman be informed about the type of procedure to be used, possible complications, and abortion alternatives.

Thank you for your time and consideration on this matter and I hope you will not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Barry".

Senator Barry R. Finegold  
Second Essex and Middlesex District



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1020*

**GLORIA L. FOX**  
**REPRESENTATIVE**

7TH SUFFOLK DISTRICT  
ROOM 167, STATE HOUSE  
TEL (617) 722-2810

Rep.GloriaFox@hou.state.ma.us

June 8<sup>th</sup>, 2011

COMMITTEES:  
HOUSING (VICE CHAIR)  
WAYS AND MEANS  
RULES

The Honorable Cynthia Stone Creem, Chair  
The Honorable Eugene O'Flaherty, Chair  
Committee of the Judiciary  
State House, Room 136  
Boston, MA 02133

Dear Senator Creem and Representative O'Flaherty,

I wish to testify in **opposition** of H.482, An Act Relative to a Woman's Right to Know.

This legislation is unnecessary, expensive, and intrusive into the very personal decision-making process that accompanies a woman's informed decision to seek an abortion.

State law, Chapter 112 Section S, currently requires that any woman seeking an abortion be notified of 1) the medical terminology associated with the procedure to understand its purpose and intent; 2) a description of the stage of development of the unborn child; 3) the type of procedure the physician intends to use to perform the abortion; 4) the possible complications associated with the use of the procedure and with the performance of the abortion itself; and 5) the availability of alternatives to abortion. Once a woman receives this information, she is required to sign an informed consent form, which is kept by the physician for seven years.

Given these facts, I believe H. 482 is an unnecessary, unfunded mandate that places an irresponsible level of expense on the public health department's budget.

In addition, the provisions listed in H. 482 will take an extreme emotional toll on the mental well-being of the patient. Women who wish to hear the heartbeat or view the ultrasound of the fetus prior to the abortion already have this option available to them. It is cruel and unusual punishment to require a woman who has to have an abortion because of a medical complication (such as an ectopic pregnancy) listen to the doctor explain and visualize all the possibilities her child might have been had circumstances been different.

For all of these reasons, I am asking the Committee to recommend this bill ought not to be discharged. Thank you for your careful consideration.

Yours in Community Service,

A handwritten signature in cursive script that reads "Gloria L. Fox".

Gloria L. Fox  
State Representative, 7th Suffolk  
617-722-2810  
[Gloria.Fox@mahouse.gov](mailto:Gloria.Fox@mahouse.gov)



# PatriotLedger.com

DIPLOMA DAYS Check out our special graduation section

## COMMENTARY: Transgender bill debate should remain civil

**GateHouse News Service**

Posted Jun 06, 2011 @ 06:52 AM

Recommend

36 people recommend this. Be the first of your friends.



**COMMENTARY BY GUNNER SCOTT and KARA S. SUFFREDINI** – On Wednesday, our Legislature's Joint Committee on the Judiciary will hold a public hearing on the Transgender Equal Rights Bill that would add protections for transgender residents in the areas of employment, housing, public accommodations, education, and credit.

It would also add protections for transgender people to the state's hate crimes law.

Opponents of this bill will testify at the public hearing. It is our hope that they will do so respectfully, absent the dehumanizing rhetoric that has characterized past hearings (such as claims that the bill is about giving protection to "sexual predators"). Let's remember – most especially in the recent attack on Arizona congresswoman Gabrielle Giffords – that language and laws help shape our social climate.

We saw this most clearly during the emotionally charged political and cultural debate that gripped the state during the 2004 Constitutional Conventions on marriage rights for same-sex couples.

There was a documented increase in reported assaults on lesbian, gay, bisexual and transgender people and those perceived to be among this group, who saw bias crimes jump 30 percent from 2003 to 2004 according to Fenway Health's Violence Recovery Program.

It's not surprising that amid the heated debate over same-sex marriage, during which some religious and political figures stoked fear and resentment against lesbian, gay, bisexual and transgender people by characterizing them with dehumanizing terms (comparing their marriages to acts of terrorism) or offensive stereotypes (gay men prey on children), there was a significant spike in crimes against their community.

Violent rhetoric can have unintended consequences, particularly when it's amplified in our media-saturated culture. That same dynamic is playing out in efforts to pass legislation to prevent discrimination against transgender people.

In April, Chrissy Lee Polis, a transgender woman, was attacked by two other young women as she entered the women's bathroom at a Maryland McDonald's. The beating, captured on video by an employee, lasted more than three excruciating minutes, until Vicky Thoms, a middle-aged woman, intervened to stop it. The attack happened less than a week after Maryland legislators debated a transgender non-discrimination bill. And this month in Fredericksburg, Va. – less than 100 miles from where Polis was attacked – a transgender woman was beaten to unconsciousness by four assailants outside of a 7-Eleven.

These attacks are not an anomaly. In any given month, the Massachusetts Transgender Political Coalition hears from dozens of transgender Massachusetts residents who have been victimized simply because of who they are.

Some are too fearful to report the attacks, while other incidents, like the beating of a transgender woman in Chelsea by a man wielding a chain last March, make the news. And though the victims' physical wounds may heal, the emotional trauma lingers indefinitely – and not just with the victims, but with their parents, siblings, spouses, and friends.

Who can bear the pain of knowing a loved one can be so viciously hated?

Let's not send the message that our Commonwealth is a place that tolerates the dehumanization and marginalization of anyone. Regardless of whether you support the bill or oppose it, let's express our opinions with respect and tolerance for each other's humanity.

After rescuing Chrissy Lee Polis from her attackers, Vicki Thoms told a local TV station that she didn't even make a distinction about Chrissy's gender. "I didn't look at her as different," Thoms said. "I looked at her as human."

That's what it's all about.

*Gunner Scott is the executive director of the Massachusetts Transgender Political Coalition. Kara S. Suffredini is the executive director of MassEquality. Both organizations back the passage of the Transgender Equal Rights Bill.*

Copyright 2011 The Patriot Ledger. Some rights reserved

Comments (6)

OFF02125

22 hours ago

Report Abuse

You must be logged in to report abuse.

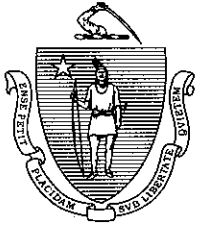
Report Abuse

Umm....

Isn't assault already against the law? Wouldn't discrimination against the transgendered be covered under the 'Civil Rights Act'?

What's to stop perverts from abusing this law? Will they add 'impersonation of the transgendered' to the charge?

What about a law to protect drug addicts, alcoholics and unattractive people? They must have a hard time finding a job and they probably get beat up a lot.



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

**CORY ATKINS**

STATE REPRESENTATIVE  
14TH MIDDLESEX DISTRICT  
ACTON, CONCORD,  
CARLISLE, CHELMSFORD

Vice Chair:  
House Committee on Rules

ROOM 166, STATE HOUSE  
TEL. (617) 722-2692  
FAX (617) 722-2822  
Rep.CoryAtkins@hou.state.ma.us

TESTIMONY

Hearing: June 8, 2011

To: Members of the Joint Committee on the Judiciary  
From: Representative Cory Atkins  
Date: June 8, 2011  
Re: **H. 502, An Act relative to transgender equal rights**

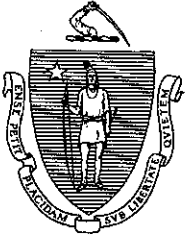
I write today in support of **H. 502, An Act relative to transgender equal rights**, which would bring our civil rights protections into the 21<sup>st</sup> century and provide greater protection against bigotry and bias.

Our Commonwealth has a long history of protecting its citizens from discrimination based on sexual orientation and gender, and is traditionally ahead of much of the nation in providing progressive protection long before it becomes a national issue.

At present, fifteen other states and the District of Columbia have passed or amended their anti-discrimination laws to protect gay, lesbian, and transgender rights. In Massachusetts, the cities of Boston, Cambridge, and Northampton have also adopted policies similar to the proposed legislation. I believe that one's safety in private places such as bathrooms will not be compromised, since not a single incident in private spaces has been reported with regards to these regulations in the noted cities, respectively.

Any man, woman, or transgendered person who carries out any form of harassment will not be protected or held exempt from prosecution under the proposed legislation. A person with harmful intentions has just as easy of access to private spaces under the proposed legislation, such as bathrooms, as he or she does presently.

I thank the committee for its time and consideration of this matter and I ask the members to report this bill favorably out of committee in a timely and efficient manner.



# The Commonwealth of Massachusetts

## House of Representatives

State House, Boston 02133-1054

June 8<sup>th</sup>, 2011

The Honorable Eugene O'Flaherty, Chair  
Joint Committee on the Judiciary  
Massachusetts House of Representatives  
State House, Room 136  
Boston, MA 02133

The Honorable Cynthia Creem, Chair  
Joint Committee on the Judiciary  
Massachusetts State Senate  
State House, Room 405  
Boston, MA 02133

Dear Chairman O'Flaherty and Chairwoman Creem,

I am writing in support of House Bill 523, *An Act to require national background checks*. The bill would require a background check for people who either work or volunteer for the Department of Developmental Services and have the potential for being placed in an unsupervised situation with a person with disabilities. This is a crucial bill that will protect some of the most vulnerable citizens of the Commonwealth from abuse and neglect.

Those who volunteer and work with the persons with disabilities in an unsupervised situation are placed in a position of trust and power, a position that is sometimes abused. This bill seeks to implement a higher standard for those who perform services for the disabled communities throughout the Commonwealth of Massachusetts. This standard will be a great help to protect people who have been routinely abused physically, mentally, and sexually in the past and are often times unable to protect themselves or speak up after an incident.

The current system of hire for adults looking to work with the DDS requires all applicants to undergo a CORI check. However, the background check does not present any criminal information beyond the border of Massachusetts state lines. This presents a clear danger to those receiving services from DDS, as the men and women are a part of a most vulnerable group in society.

H523 will work towards a more in-depth system of inquiry for future employees. The system will weed out candidates who may present a danger to the members of the disability community. Working with the FBI, and under the CJIS division, employers will now have the ability to use a fingerprint search for records of both criminal and sexual nature. Failure to abide to a finger print check for new employees will impose a fine, upwards of \$10,000, to the employer at fault.

There are numerous men and women who are abused by an ill hired employee every day. Often, the individual is unable to attain help, and is left suffering. It is not just in the workplace that this is happening, but by DDS employees in the homes of persons with disabilities. An elder woman in Plymouth, MA, Rosie, was left to the care of an attendant once her sister passed away. The care taker has abused Rosie, taking away her right to watch television, locking her in her room, not letting her eat dinner because she spoke out, and even barring her closest sibling from ever seeing her at the house. Unfortunately, Rosie is never allowed to leave the house. Neighbors have testified, reporting that the care taker's screams of abuse could be heard through the neighborhood.

Women and young girls are experiencing sexual abuse on a day to day basis. Studies show that 49% of disabled women and girls who have been victim to sexual abuse have been assaulted at least 10 times. It is sickening to realize that children with a disability are 4 times more likely to be sexually abused than children of their age.

Studies have proven that children with permanent disabilities are more likely to succumb to abuse, if not from the parent, than from the care taker or educator. Children are neglected, beaten, verbally abused, deprived, assaulted; it is sickening to think of what these innocent children must endure in their everyday activities.

The new system will not only create a safer working environment for members of the disability community, but hopefully expedite the hiring process. It must also be noted that this bill will not inhibit an employer's want to use a CORI check, but offer a more resourceful option.

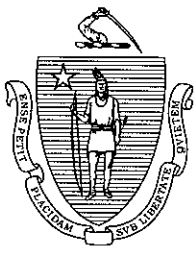
The cost of inducting such a system is minimal. It is estimated that the necessary machinery would total to about \$12,000 to \$18,000. The process in itself, while estimating an annual hire of 5,000 employees, is said to amount to no more than \$125,000. Although inexpensive, I can only urge you to look beyond the price, and to the situations that this process may prevent.

It is unfair that men, women and children are abused because of their inability to stand-up for themselves. A young child should not have to face her rapist every day in their own home, nor should a young man be required to work alongside someone who physically assaults him because of his disability. A woman should feel comfortable in entering a work environment, free from the thought that someone might take advantage of her.

Our society takes a stand for the most vulnerable of residents. In cases of elderly or children, there is never a question to great security. Why should a person with disability be any different? On behalf of the disability community at large, I urge you to support this remarkable legislation for the sake of thousands of men, women and children across the Commonwealth.

Sincerely,

Tom Sannicandro  
State Representative  
7<sup>th</sup> Middlesex District



# The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

## DENISE PROVOST

27TH MIDDLESEX DISTRICT  
ROOM 473B, STATE HOUSE

TEL (617) 722-2263

FAX (617) 722-2837

Denise.Provost@MAhouse.gov

## COMMITTEES:

Transportation

Higher Education

Personnel and Administration

The Honorable Cynthia Stone Creem, Senate Chair  
Joint Committee on the Judiciary  
State House, Room 405  
Boston, MA 02133

The Honorable Eugene L. O'Flaherty, House Chair  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

June 8, 2011

Dear Honorable Chairs and Committee Members:

I am here today to urge you to act favorably on *H.505 (S.764) the Transgender Civil Rights Bill*. This bill provides the correct answer to the question of how any civilized community should treat its transgender members. The obvious answer – “just like anyone else” – was modeled for me in a way that I would like you to think about it.

About ten years ago, when my children were still quite young, a woman who had been attending our church left for a time, and returned, after surgery, as a man. I wondered how the eldest members of our church would respond to this change. Everyone was warm, gracious, and welcoming – even those folks in their seventies and eighties – and I wish that they were all alive and healthy today to demonstrate their support for the rights – and fundamental dignity – of transgender people.

The children of our parish, from kindergarteners to teens, took this individual's gender transformation completely in stride. The adults in their lives did not teach them fear and aversion, and what they have in place of these toxic reactions are insight, empathy, and human acceptance. When I receive letters characterizing H.502 as harmful to children, I can only shake my head in puzzled dismay.

Every person in Massachusetts ought to be able to expect to be free of identity-based violence and harassment; and to be free from identity-based discrimination in housing, employment, and public

accommodation. These are basic civil rights, and H.502 is the civil rights bill that will secure them. Every day that goes by without passage of this bill is a day in which we are complicit in arbitrarily denying civil rights to some of our citizens.

More broadly, the civic expectations I have enumerated are also basic human rights. Yet our laws currently embody a gap into which transgender people fall. Unless we believe that transgender people are not human, and do not have rights, we should immediately move H.502 toward enactment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise Provost". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Denise Provost

State Representative



# MASSACHUSETTS MEDICAL SOCIETY

*Every physician matters, each patient counts.*

**Testimony of the Massachusetts Medical Society  
Before the Joint Committee on the Judiciary  
Concerning H 502 and S 764  
An Act Relative to Transgender Equal Rights  
June 8, 2011**

At its 2011 Annual Meeting three weeks ago, the Massachusetts Medical Society's House of Delegates adopted the following policy position.

- 1. That the Massachusetts Medical Society recognize the significant negative health outcomes and health care disparities caused by discrimination and hate violence against transgender individuals based on their gender identity and expression. .**
- 2. That the Massachusetts Medical Society strongly support legal protections against discrimination and hate violence against transgender individuals based on their gender identity and expression.**

The MMS's House of Delegates is the policy making arm of the Society. It is comprised of over 200 regional delegates representing the nearly 23,000 physicians and student members of the MMS. Proposed policies are introduced by individual members, committees of the Society or Districts. Testimony is presented publicly during reference committee hearings on the first day of the Annual meeting and the full House of Delegates votes on the reference committee's recommendations thereafter.

The policy above was recommended for adoption by the reference committee and subsequently adopted by the full House of Delegates. The Joint Committee on the Judiciary is the first legislative forum to address the issue of discrimination and hate violence against transgender individuals since the adoption of our policy. Therefore, we hope that you will take action consistent with our policies to craft legislation to reduce discrimination and hate violence against transgender individuals and that together we may work to improve health care outcomes and reduce disparities in care.

860 WINTER STREET, WALTHAM, MA 02451-1411

TEL (781) 893-4610 TOLL-FREE (800) 322-2303 FAX (781) 893-8009 WWW.MASSMED.ORG

Testimony of Philip D. Moran, Esq.  
265 Essex Street  
Salem, MA 01970

Having read and re-read H502, also S764, the so-called Transgender Rights and Hate Crime Bill, I have the following comments:

First: I submit that the phrase "gender identity or expression" is impermissibly vague because it fails to establish standards for law enforcement officials, both the police and prosecution, that are sufficient to guard against arbitrary and discriminatory suppression of First Amendment rights.

As a former Assistant District Attorney and a practicing attorney for four decades, I can honestly state that regardless of how many times I considered the phrase "gender identity or expression" as it is used in the proposed bill, I don't have a clue what it means and I doubt any of the sponsors do either.

Second: Those sections, namely 17 and 19, that address public accommodations, in addition to being impermissibly vague, are an overly broad, prior restraint of free speech.

In essence, the bill burdens substantially more speech than necessary to achieve a legitimate and substantial government interest.

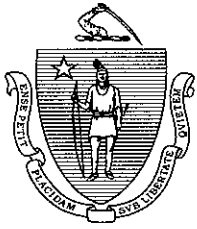
In addition, how and who is going to determine a distinction, whatever that means, discrimination or restriction or even worse, how and who is going to determine that someone is aiding in inciting a distinction, discrimination or restriction?

Third and finally, Section 18 which states that, "...all lawfully sex segregated facilities, accommodations, resorts, amusements shall grant admission to and the full enjoyment of such facilities, accommodations resorts and amusements, consistent with their gender identity or expression." Members of the Committee, I submit this absurd granting of so-called equal rights is in fact a violation of the liberty interests protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution and is in violation of my and your equal right to be protected from those individuals who choose to violate what the bill itself calls lawfully sex segregated facilities.

I submit these bills are unconstitutional both facially and as applied and I respectfully request you vote them down from ever seeing the light of day. It's time for some common sense.







*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

**CORY ATKINS**  
STATE REPRESENTATIVE  
14TH MIDDLESEX DISTRICT  
ACTON, CONCORD,  
CARLISLE, CHELMSFORD

Vice Chair:  
House Committee on Rules  
  
ROOM 166, STATE HOUSE  
TEL. (617) 722-2692  
FAX (617) 722-2822  
Rep.CoryAtkins@hou.state.ma.us

**TESTIMONY**  
**Hearing June 8, 2011**

To: Members of the Joint Committee on the Judiciary  
From: Representative Cory Atkins  
Date: June 8, 2011  
Re: H. 482, An Act relative to a woman's right to know

I write today in opposition to H. 482, An Act relative to a woman's right to know. Contrary to its title, this bill takes away rights from women rather than increasing them, and it has the potential to endanger women's health.

This bill reduces women's rights by unnecessarily restricting access to abortions. Many women who seek abortions do so in distressed circumstances such as rape, incest, or domestic violence. Erecting further barriers to abortions would needlessly increase the pain and suffering endured by these women. Not only would the additional wait time be psychologically damaging, but a woman's physical health could be in danger as well.

Further, this bill is not an attempt to give people information. Rather, it is a thinly veiled attempt to restrict access to abortion, a procedure that has been legal in the United States since 1973. By forcing doctors to provide voluminous amounts of additional information and by forcing patients to wait twenty-four hours, the bill serves to impede rather than inform medical procedures.

Finally, this bill is inimical to modern medicine. In an era of ever-expanding access to quality health care, few people other than anti-choice activists would intentionally try to reduce access to quality health care. This bill attempts to cut women off from care that could otherwise help them recover from physically and emotionally distressing situations. This bill is an insult to victims of rape and incest, and it is shameful for its lack of sensitivity.

I thank the committee for its consideration of this matter. I urge you to give the bill an unfavorable report.



# KnowThyNeighbor.org

My name is Tom Lang and I am the Director of KnowThyNeighbor.org. I am in favor of **House Bill 502** and **Senate Bill 764**, the Transgender Equal Rights Bill..... passing out of this Esteemed Committee and for its swift passage by the massachusetts Legislature.

It has been a while since I have testified here at the State House, but I can quickly see that it is the same list of characters opposing the rights of Massachusetts citizens. We have Brian Camenker of MassResistance, a nationally recognized Hate Group and Kris Mineau of the the Massachusetts Family Institute who sent out an email to his constituents asking them to pray that his own organization would not be classified a Hate Group as well. But this time they are not opposing Marriage Equality, what some would consider a debatable right. They are opposing Basic Human Rights for a group of people, the Transgender Community, who want protections in everyday life, something you and I already have, and thus may take for granted. These Basic Human Rights which are being denied and have been blocked for over 3 years are protections in Employment, Housing and Public Accommodations based on Gender Identity and Expression. Basic Human Rights, are the responsibility of the Commonwealth to insure for its citizens so that they can work, rent housing and enter public places without the fear of being fired, thrown into the streets or to be told to leave just based on how others judge their appearance.

This Committee has heard the many horror stories of Transgender People losing their jobs, becoming homeless, some having been viscouly assaulted, bullied in schools, and others having been murdered right here in MA because of their gender identity and expression. Passage of House Bill 502 and Senate Bill 764 will not only make these Human Rights Violations illegal, and the are Human Rights Violations, but it will set in motion an Educational Process reaching to local businesses and Chambers of Commerce, to landlords, to schools, to police and first responders including EMT's, to the courts which will finally effect change and understanding in the Society at large.

But my colleagues at MassResistance and the Massachusetts Family Institute don't want you to think about this. Instead they want to continue their "Bathroom Bill" messaging, demeaning a group of people and playing political games, while Massachusetts loses more of its leadership role in Human and Civil Rights nationwide. We currently lag



# KnowThyNeighbor.org

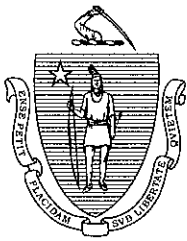
behind 14 other states including the District of Columbia and hundreds of municipalities who have fully ended gender identity discrimination. And in our last Gubernatorial election here in MA, Charlie baker, because of his cowardice in bending toward this hateful rhetoric, lost many Independent voters as once again a Wedge Issue was created by these fringe activists. I am saddened that Senator Richard Tisei, Baker's running mate and Supporter of this Bill was lost in the crossfire. He will be missed.

The simple truth surrounding the "Bathroom Bill" argument is that no where in this country has a Transgender Woman caused any harm to any other woman in a ladies room. As a matter of fact it is the transgender who become the victims of violence when they are forced to use facilities where they do not feel comfortable, as we saw recently in the nationally publicized video of the attack against a 23 year old transgender woman, Crissy Polis, in Maryland who was beaten into a seizure while MacDonal'd's employees filmed it and laughed, calling her a "dude."

Mr. Camenker and Mr. Mineau will have you believe that passage of this bill will cause men to sneak into Ladies Rooms, dressed as women, in order to sexually assault unsuspecting ladies--a completely absurd scenario. Transgender people are the victims of the scapegoating being used in these fantasies perpetrated by MassResistance and MFI and are absolutely not a suspect class in any such illegal assaults against women. The perpetrators of such assaults being created in these "boogey man" scenarios are not Transgender Women but are Heterosexual Males. May I suggest that Mr. Mineau and Mr. Camenker focus on that latter demographic and join the rest of us in protecting the real victims here, the Transgender community. These men should also take note that they themselves fit the profile of the suspect class of individuals who would commit sexual crimes against women infinitely more than ANY Transgender person in this room.

I ask once again that this Esteemed Committee see beyond these Fear Tactics and join 14 other States and the District of Columbia by ending Discrimination based on Gender Identity and Expression. Please vote favorably for House Bill 502 and Senate Bill 764, the Transgender Equal Rights Bill to move out of Committee and help insure its swift passage, placing Massachusetts once again in the role as a Civil and Human Rights leader.

Thank you.



The Commonwealth of Massachusetts  
House of Representatives  
State House, Boston 02133-1054

REPRESENTATIVE  
JOYCE SPILIOTIS  
12TH ESSEX DISTRICT

ROOM 236, STATE HOUSE  
TEL. (617) 722-2430  
FAX (617) 722-2346  
Joyce.Spiliotis@MAhouse.gov

COMMITTEES ON:  
(VICE CHAIR)

MUNICIPALITIES & REGIONAL GOVERNMENT

CONSUMER PROTECTION & PROFESSIONAL LICENSURE  
HOUSE COMMITTEE ON WAYS & MEANS  
HOUSE COMMITTEE ON GLOBAL WARMING & CLIMATE CHANGE

June 6, 2011

Joint Committee on the Judiciary  
The Honorable Cynthia Creem, Senate Chair  
The Honorable Gene O'Flaherty House Chair  
The State House Room 136

**Re: House Bill 523 "An Act to Require National Background Checks"**

Dear Mr. and Ms. Chairman and Members of the Committee,

I write to convey my strong support of House Bill 523. The intention of the legislation is to protect the most vulnerable of our citizens from potential harm when providing services on behalf of the Department of Developmental Services by using an efficient national background check system maintained by the Federal Bureau of Investigation.


The Department has a network of home and community based services which employs many people and also uses volunteers to conduct services to a variety of developmentally disabled clients including autistic children. Unsupervised contact with individuals with intellectual disabilities could be harmful when the caregiver is virtually unknown. Family members need assurance that a person of good moral character is providing the care that is most often in residential homes or community facilities. They do not need to add an unacceptable level of risk, physical or financial in the name of keeping a loved one at home.

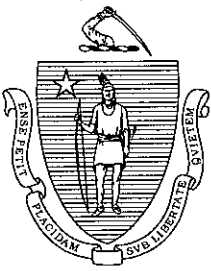
Providing background checks for each person is a drain on the resources of the Department, especially when there is a National Integrated Automated Fingerprint Identification System already in place. The most comprehensive bio-metric database resides with the FBI. They can process fingerprints in 10 minutes and for more complex identifications within an hour. Since the Commonwealth contributes to the system voluntarily, it only makes sense to recoup the data when needed. The Criminal History System Board, the Disabled Persons Protection Commission and the State Police will collaborate in the exchange of CORI records for vendors who contract with the Department for any person seeking employment, training, or volunteering here in Massachusetts and from other jurisdictions around the country.

As we in the Commonwealth, move rapidly to implement a "Community First Model" we need to have systems in place to process required background checks for workers in this field. I believe this is a sad but necessary first step to close any further gaps in current way vendors collect information about potential employees.

On behalf of the numerous constituents that have contacted me in support of this legislation, and the families and neighbors across the Commonwealth chagrined when recounting horror stories of being taken advantage of; I respectfully request your careful consideration in reporting HB 523 favorably to the legislature.

Sincerely yours,

  
Joyce A. Spiliotis  
State Representative, 12<sup>th</sup> Essex District.



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

REP. ELLEN STORY  
3RD HAMPSHIRE DISTRICT  
AMHERST • GRANBY

FLOOR DIVISION CHAIR

16 EMERSON COURT  
AMHERST, MA 01002  
TEL. (413) 256-6300

ROOM 277, STATE HOUSE  
TEL. (617) 722-2012  
FAX (617) 570-6577

[Rep.EllenStory@hou.state.ma.us](mailto:Rep.EllenStory@hou.state.ma.us)

June 8, 2011

Representative Eugene L. O'Flaherty  
State House, Room 136  
Boston, MA 02133

Dear Mr. Chairman:

I write to you in support of House bill 502 and Senate bill 764, *An Act Relative to Transgender Equal Rights*.

I strongly support this bill. In the four years I have been a co-sponsor of this bill, I have not heard a single compelling argument against its passage.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Ellen Story".

Ellen Story  
State Representative  
3<sup>rd</sup> Hampshire District

**Testimony**  
**Massachusetts Transgender Bill -- HB 502**  
**David L. Stormberg, M.D.**

**House Joint Committee on the Judiciary**

June 8, 2011

I am a psychiatrist in private practice. I oppose HB 1728, from the perspectives of a physician, husband, and father. The purpose of Law is to further the common good. I would like to express some considerations of this matter before us from psychological, legal, and anthropological perspectives, in terms of the common good.

As a psychiatrist, I am aware every day of the pain people bear, caused by their own inward distress, as well as by misunderstandings, judgments and mistreatments by others. I apologize now to anyone pained by my thoughts, particularly those of you here today troubled by gender ambiguity or the failure of empathy about that from other people. I hope that we in the mental health field will have the heart to both learn from you and care for you should you request it, and that you can find a way to trust the community, including us, to support you.

**This bill flouts basic human self-understanding throughout time and across cultures; it disregards common sense.** May I remind you that Gender Identity Disorder is a mental disorder in the DSM-IV, the diagnostic manual developed by the American Psychiatric Association, as well as in the International Statistical Classification of Diseases and Related Health Problems of the World Health Organization, the current version being ICD-10. Obviously, the medical profession still considers men men and women women. This bill would establish that none of the following items defines gender:

- chromosomal makeup
- production of sperm
- production of ova
- external genitalia
- ovaries, uterus, and vagina
- pregnancy
- nursing a baby
- secondary sex characteristics.

This bill would establish a new and single criterion of gender: the claim of the subject about his gender. In short, it would abolish any legal recognition of objective gender. Gender would become completely subjective. In effect, it would eradicate the meaning of gender. Any citizen who would treat a transwoman as a man, or who would treat a transman as a woman, would be judged by this bill as a criminally hateful and harmful person, and it would punish these hateful persons with fines, imprisonment, and the

stigma of being a violator of human rights. It would judge transpersons to be whatever sex they claim to be, and to be a protected class. It would place a burden on any person with Gender Identity Disorder who receives treatment for it, because that person would feel disloyal to those persons in the transgender movement, resulting in further isolation. I ask each legislator of the Commonwealth and our governor: on what rational basis would you turn such a fundamental principle of social order on its head?

**Tragically, this bill represents our society's abandonment of those persons who suffer with a gender identity disorder.** Make no mistake. The medical world understands that human beings suffer with terrible conditions that they in no way deserve. Gender Identity Disorder is one such diagnosis. We treat such persons if they come to us, validating that they suffer and that there is hope. This bill suggests that there is no disorder and therefore undercuts any hope for healing that someone with this trouble might have. The simple and implicit claim that there is no disorder, claimed by the government by statute, will not do away with the disorder of these people or their suffering. This law will reinforce their disorder, and bring the full force of the law into supporting it. If a man is troubled by a feeling of femininity, any sense he has of wanting to become identified with maleness will be felt as contrary to the wisdom of his society as expressed by its Law, because this particular law will treat anyone as criminal who would treat him as a man. But, being treated as a man will surely help him feel less feminine. Indeed, his own attempt to treat himself as a man would be suggested to be self-traumatizing. This bill traumatizes all of us, including those it is designed to protect.

**Let's consider some of the psychological consequences of this bill.** Men are protectors of women and children. Can you imagine the demoralizing effect on men, told by the law that our sense of gender is so invalid that to act on it to protect women and children is criminal behavior? Can you imagine how deeply unsettling such a change in our law will be for girls and women, told by the law that a sexual predator or voyeur, masquerading as a woman in the ladies' room and willing to lie about his gender experience, has a legal right to be in the bathroom? How disturbing is it to a female to be told by the law that boys and men may share the locker room with them at school or at the health club? How disturbing is it for a female to be told that a man who would protect her from such conditions is a criminal and a violator of civil rights, whereas the man invading her privacy is in a protected class? How will such a female's respect for law be affected?

**This bill challenges the validity of the civil commitment statute for psychiatric patients, M.G.L. Chapter 123, Section 12.** According to the civil commitment statute for involuntary hospitalization, the applicant's judgement that another person is mentally ill is a necessary condition for the temporary infringement of the liberty of that person. According to this transgender bill, not even the agreement of virtually everyone about something so basic as the subject's gender is a basis for simply keeping them out of the other gender's bathrooms. If virtually unanimous agreement cannot even keep a person from using some bathrooms, how in the world can we justify imprisoning a person based



on one person's view that that person is mentally ill? If you pass this bill, the civil commitment law will become impossible for you to support on any basis that is consistent with the philosophy of this bill.

**The bill, if passed, will be socially destabilizing.** It will be enforced, or not enforced. If this law is not enforced, as in any case where a law enacted in the present day is not enforced, it will be a mockery of government. If this law is enforced, persons who act to maintain gender division in order to promote the common goods of modesty, privacy, and personal safety, normal upright citizens by today's standards, will suddenly become criminals. If this law is enforced, many citizens who abide by it and refrain from interfering will be burdened with guilty consciences. Insincere persons who take advantage of the law to further sexual perversions will be unassailable, portrayed as victims, and indeed even portrayed as heroes in certain contexts. Briefly, injustice will be assured, and that is very destabilizing to a society.

**This bill if passed may make news coverage of any incidents in which the transgender person is identified highly improbable.** If an editor of a newspaper knows that a man is innocent of violating gender privacy laws simply by virtue of his claim that he is a woman, and he knows that he is claiming to be a woman or *might* claim to be a woman, then his identifying him in his news coverage of a confrontation with others may be deemed to be an unnecessary injury to the reputation of the "victim" (i.e. his reputation in the eyes of those who think that he is a man), unnecessary because he was after all only following the law and suffered an infringement of his "rights." Then, to add insult to injury, he was reported upon in the newspaper. It seems to me that he might successfully sue the newspaper. Moreover, judging from the dearth of coverage of this bill in the press locally in recent months, I doubt most managers of news organizations really want to cover traumatic incidents that will flow from this law anyway. Whatever little willingness there is to publish reports and analyses on this matter up to passage of the bill may vanish if the bill is passed. If it passes and only small numbers of people are aware of any incidents, the law will be unlikely to be repealed no matter how problematic it becomes.

**Finally, I would like to address the radical philosophical ideas in this bill.** These are implicit. If the legislature instantiates these into law, there will be serious ramifications in other areas of our lives. Before you dare to set this in motion, imagine the meaning of this bill and its implications and ramifications. It will be harder later to reverse course than it would be now to decline this course. These ideas include:

- 1. Gender is subjective, not objective.** Another way to say this might be that one's gender is not observable or discernible by others. Implications of this view include that notions of gender have no place in law, science, anthropology and psychology. Indeed, we have already seen this in the context of the destruction of notions of marriage and

sexuality. Sex denotes complementary participants, each bringing something the other cannot. Commonly now, the word sex in the social context does not refer to this complementarity, but rather refers to physical sexual arousal and discharge. Likewise, here in the Commonwealth, marriage does not refer to a union of a man and a woman, but just the “union” of 2 persons regardless of sex. It is clear that “sex” and “marriage” have lost their specificity. The fact that these losses of meaning have occurred lends credibility to the idea that the concept of gender will be diluted or destroyed by the changes brought about by passage of this bill. Will the category “species” be next? This is not idle speculation. Indeed, there are philosophers highly placed in academia who are arguing that species distinctions are arbitrary when it comes to legal rights. Professor Peter Singer at Princeton is a good example. Notice that given this idea that gender is subjective, **we must assume someone’s claim about his gender is sincere.** This is because were one to insist on the possibility of insincerity, one would then have the impossible task of sorting the sincere from insincere, with no gold standard because of the premise that gender is subjective, not objective. Specifically for this bill, someone’s *claimed* subjective experience of gender is a sufficient condition for the community to be legally compelled, under pain of prosecution, to agree. The claim alone is sufficient to qualify someone for protection under this proposed law. There does not need to be corroborating evidence for the claim, such as consistent and persistent social behavior, or agreement by impartial and expert others known to be persons of integrity and sound judgment. Moreover, those who disagree with the person’s gender identification are forbidden to act on that judgment, under pain of criminal prosecution, even when their intent is to ensure the security and privacy of others, including even minors. This premise undermines the very notion of community, in which various individuals find unity, with a *shared* sense of meaning, purpose, cooperation, and identity. Given this premise, the view of another person or of the group about someone’s gender has no validity. Some of you might be tempted to allow this premise to pass unchallenged, in this case because you like the outcome of this particular proposed law; but to be consistent as a legislator, you will have to leave unchallenged an equivalent premise when it comes to other matters, even when the outcome is undesirable to you.

**2. The notion of objectivity is invalid.** In general, the more agreement there is about an observation or judgment, the more confident we are that it is “objective.” Sex and gender are characteristics that are easily agreed upon. This bill calls into question objectivity in general, for it will approve the particular view of an individual with whom virtually everyone else’s observations not only disagree, but also are in diametric opposition! Not only that! It will make criminals of those who do not base their behavior on the single individual’s claim.

In summary, passage of this bill would be terribly misguided, cause great harm, and be much more difficult to reverse later than to prevent now. Please reflect soberly before you cast your vote. Thank you for your attention.

JOINT COMMITTEE ON THE JUDICIARY

Wednesday June 8th, 2011

1:00pm

State House, Gardner Auditorium

Boston, MA 02133

TESTIMONY OF JAMES J. LYONS, JR., STATE REPRESENTATIVE FOR THE 18TH  
ESSEX DISTRICT IN FAVOR OF H02239, AN ACT RESTORING FREE SPEECH AND  
PUBLIC ACCESS

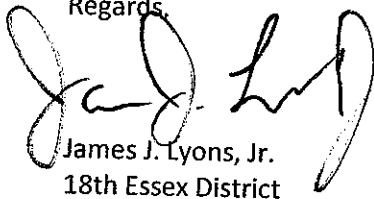
Chairwoman Creem, Chairman O'Flaherty, and members of the Joint Committee on the Judiciary: good afternoon. I stand before you today to speak in favor of H02239, An Act Restoring Free Speech and Public Access.

As currently written, the buffer zone law severely curtails the right of free speech of American citizens, by preventing such speech on significant spaces of public sidewalks, egresses, and property adjacent to non-emergency care abortion facilities. All citizens of the Commonwealth of Massachusetts should have a right to have their voices heard, even when the elites or the powerful or large majorities disagree with what those minority voices are saying. After all, it is in the dissident voices of powerless minorities that free speech is at its most vulnerable, and it is, therefore, just such dissident - even abrasive or difficult - voices that must be most strongly defended, protected and cherished. The buffer zone restricts the rights of one group of citizens, and one group only. In Massachusetts, that advocacy group expresses a minority view that possesses little if any power in the realms of politics, media, economics or society. That makes them easy to single out - easy to scapegoat, easy to place particular restriction upon. Where else in this country is there legislation that prohibits a citizen's right to free speech on the public property which their hard earned tax dollars have been used to create and maintain?

In practice, this buffer zone restricts the open and free speech of pro-life advocates, only. Employees, agents, and escorts associated with abortion facilities are allowed free speech within these zones. They alone have the exclusive ability to preach their message, while pro-life councilors are shut out of the opportunity to engage anyone. This law allows one interest group to express its message - freely and unimpeded, while it bars a competing advocacy group from equal access to such free speech rights. It is affront to the American notion of fairplay - and to the fundamental principles upon which our great constitutional republic is founded.

I implore you to support the bill put forth by Representative Lombardo. Thank you for the opportunity to stand before you today.

Regards,



James J. Lyons, Jr.  
18th Essex District

JOINT COMMITTEE ON THE JUDICIARY  
Wednesday June 8th, 2011  
1:00pm  
State House, Gardner Auditorium  
Boston, MA 02133

TESTIMONY OF JAMES J. LYONS, JR., STATE REPRESENTATIVE FOR THE 18TH  
ESSEX DISTRICT AGAINST H502 and S764

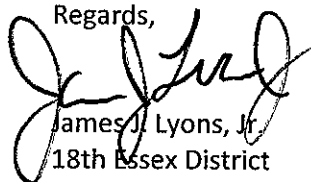
Chairwoman Creem, Chairman O'Flaherty, and members of the Joint Committee on the Judiciary: good afternoon. I stand before you today to oppose HB502 and SB764, both of which would place an unnecessary burden upon the hard working families of the Commonwealth of Massachusetts.

Is there not some point at which we say to ourselves in the legislature of our Commonwealth, "what are we doing"? What new and peculiar burden are we placing on the working families of Massachusetts? Is it not enough for mothers and fathers to worry about their children's education and future in these trying economic times? Is it not enough that parents worry about paying ever increasing family bills whether they are the rent, or the mortgage, or property taxes, or income taxes, or health insurance costs, or just basic fuel and gas costs? Is it not enough that mothers and fathers worry about the environment that their children will inherit—whether the physical environment balancing clean air with energy needs—or the economic environment of massive debt and jobless recoveries? Well now the working families of the Commonwealth must worry about the moral environment that their children are growing up in. They must now worry about whether their children are free to experience the time tested traditional family values that have formed a bulwark of our American life for hundreds of years.

We must not place another burden on the working families of the Commonwealth. We must not force parents to worry needlessly every time their children are at a public place. Can we not assure mothers and fathers that even they can depend on one simple thing: that when parents send their daughter or son into a facility reserved for women or men only, that they will encounter women or men only in that place? Is that really too much to ask? We have all had enough of the divisiveness. Let us join together and look to those things that unite us—that bring us together in this Commonwealth—as common citizens, sharing common values and common sense. Common sense demands that we ask the question over and over again: what are we doing? What burdens and worries are we placing on the working families of Massachusetts?

Let us please free parents and working families from bearing one more burden. Let us vote no on the proposal. Thank you for allowing me the opportunity to testify.

Regards,



James J. Lyons, Jr.  
18th Essex District

**Testimony for HB:523**  
**An Act to Require National Background Checks**  
**June 8, 2011**

**Panel Members:**

**Maureen Gallagher, Executive Director, Massachusetts Down Syndrome Congress**

**Lisa Ching, Member, Massachusetts Developmental Disabilities Council**

**Nancy A. Alterio, Executive Director, Massachusetts Disabled Persons Protection Commission**

**Paul K. Willenbrock, Ed.D., Member, Government Affairs Committee, Arc of Massachusetts**



## Massachusetts Down Syndrome Congress

**TO:** Members of the Judiciary Committee  
**FROM:** Maureen Gallagher, Executive Director, MDSC  
**RE:** H. 523 An Act to Require National Criminal Background Checks (Staff Who Work With Individuals Served by the Department of Developmental Services)  
**DATE:** June 8, 2011

The Massachusetts Down Syndrome Congress (MDSC), a non-profit organization established in 1983 representing more than 5,000 people with Down syndrome in the Commonwealth, strongly supports House Bill 523, An Act to Require National Background Checks.

This bill will require a national criminal background check of candidates who apply for positions to work with individuals served by the Department of Developmental Services (DDS.)

People with Down Syndrome are among the many children and adults who receive services from the Department of Developmental Services.

Life expectancy for people with Down syndrome has increased dramatically in recent decades – from 25 in 1983 to 60 today.

Quality education programs, good health care, and positive support from family, friends, and the community enable people with Down syndrome to develop to their full potential and lead fulfilling lives.

Many services provided to people with Down syndrome and other developmental disabilities operate under the jurisdiction of the DDS and their vendor agencies which employ approximately 14,000 workers who provide those services.

Under the current law, people with developmental disabilities are vulnerable to unthinkable acts of abuse that are happening in large numbers in the Commonwealth. In FY2010 alone, the Massachusetts Disabled Persons Protection Commission received over 3,500 reports of abuse of persons with developmental disabilities.



## Massachusetts Down Syndrome Congress

Our society has a responsibility to do everything within its power to protect people who cannot or will not speak out for themselves.

The Committee has the opportunity to protect the human dignity of all persons with Down syndrome and other developmental disabilities.

Approval of House Bill 523 would mean that persons employed by the Department of Developmental Disabilities and its vendor agencies must first be screened with a national background check, not just our state CORI check.

Right now, people who have committed significant crimes of violence or abuse in other states can come to Massachusetts and be hired in positions where they will be working with people with cognitive disabilities. There is no system in place to give DDS and their vendor agencies access to comprehensive criminal history of potential employees who have committed crimes outside of Massachusetts.

Our DDS Commissioner, Elin Howe, supports House Bill 523 because it rectifies this gaping hole in the state's ability to protect its most vulnerable citizens.

We are simply asking for fundamental protections for a vulnerable population. On behalf of our entire organization and as the parent of an adult with a developmental disability, I thank you for taking the appropriate steps in ensuring a timely approval of this bill.

For further comment, I can be reached at 781-449-0024 or [mgallagher@mdsc.org](mailto:mgallagher@mdsc.org).

# PatriotLedger.com

**SPEAK OUT: Checking on the caretakers  
A hole in the law lets out-of-state crimes fly under the radar**

By Maureen Gallagher, Daniel Shannon And Joshua Komyerov

*Posted Jul 12, 2008 @ 01:48 AM*

WEYMOUTH —

As reported in your pages recently, Derek Marcia was operating carnival rides in Weymouth when he was arrested in April on kidnapping and armed robbery warrants out of Florida.

The notion of Marcia interacting with children and families at carnivals in Massachusetts and elsewhere is nothing less than frightening.

But imagine if instead of landing a job with the traveling carnival, Marcia had found work in one of the state's hundreds of group homes serving people with intellectual and developmental disabilities. At the carnival, we can at least hope that crowds and caretakers will deter criminals from trying anything too brazen. But in group homes and other settings where many of our state's 180,000 people with disabilities are served, there are no such deterrents.

Even with safeguards in place at group homes including supervision and state monitoring, someone with illicit intentions could be in a position that should make everyone feel uncomfortable. After all, working in a group home with some of the state's most vulnerable individuals includes some serious responsibilities such as having access to money and prescription medication.

Scenarios like this are not outside the realm of possibility. Like carnival workers, employees hired to work with people with disabilities are required to undergo state criminal background checks, but not national checks. That means people with warrants (or a criminal record) outside Massachusetts but nothing in-state, could be working across the commonwealth in direct contact with people with disabilities.

Fortunately, a bill filed by Rep. Martin Walsh of Dorchester and co-sponsored by Rep. Louis Kafka of Stoughton would plug this gaping loophole. The National Criminal Background Check Bill (H144) would require candidates who apply for positions working



with individuals served by the Department of Mental Retardation to undergo a national criminal check in addition to the statewide Criminal Offense Registry Information (CORI ) check.

This bill has the overwhelming support of disability groups, including The Arc of Massachusetts, The Massachusetts Developmental Disabilities Council, The Massachusetts Down Syndrome Congress and Massachusetts Families Organizing for Change, as well as DMR Commissioner Elin Howe, among others. Similar legislation has already been implemented successfully in other states, including New York and Idaho.

Opponents of the bill have tried to peg it as an expansion of the CORI law, but it is no such thing. It would not have any effect on the current CORI system or on any CORI reform. It would simply require employers to conduct a national record check on top of the state check, thereby ensuring an additional level of protection.

What evidence is available underscores the need for such a law. According to the Massachusetts Disabled Persons Protection Commission, in the last decade in Massachusetts there have been more than 2,000 documented cases in which people with disabilities were victims of abuse at the hands of staff ostensibly providing care and supervision. In about 300 of those cases, the alleged abuser resided (at the time of the abuse) outside Massachusetts in a neighboring state. (This number does not even include employees who previously lived out of state.)

Because of current law, no national background check was conducted in these cases and any out-of-state criminal records went unseen. Had this law been in place, dozens of instances of abuse may have been prevented.

This law, if enacted, will give provider agencies the most basic tools to properly screen for employees who will first and foremost ensure the safety of their disabled and most vulnerable clients.

*Maureen Gallagher is executive director of the Massachusetts Down Syndrome Congress; Daniel Shannon is executive director of the Massachusetts Developmental Disabilities Council; and Joshua Komyerov is director of government affairs of the Arc of Massachusetts.*



*Commonwealth of Massachusetts*  
*Massachusetts Developmental Disabilities Council*

*1150 Hancock Street, Third Floor Suite 300*  
*Quincy, MA 02169-4340*

*DEVAL L. PATRICK*  
GOVERNOR

*TIMOTHY P. MURRAY*  
LIEUTENANT GOVERNOR

*Julie M. Fitzpatrick*  
CHAIRPERSON

*DANIEL M. SHANNON*  
EXECUTIVE DIRECTOR

**Testimony of Lisa Ching**  
**To the Joint Committee on Judiciary**  
**June 8, 2011**  
**RE: HB523**

Dear Chairpersons and Committee Members,

Thank you for giving me the opportunity to address you on House Bill 523: An Act to require national background checks. My name is Lisa Ching and I am a member of the Massachusetts Developmental Disabilities Council. The Council works to improve the system of supports for individuals with developmental disabilities and their families by bringing together lawmakers with advocates to make sure people with developmental disabilities are included in decisions about public policy. The Council works with legislators and policymakers to serve as an impartial educational resource to inform public policy at both state and federal levels to better meet the needs of individuals with developmental disabilities and their families. The Council reviewed hundreds of bills this session that positively impact the lives of people with Developmental Disabilities when developing our Legislative Priorities for the 2011/2012 Legislative Session. We voted on the National Background Check bill as our top priority.

On a personal note, my son has a lifelong developmental disability and it is extremely important to me and my family that whoever serves my child, as a respite worker or as a caretaker, be fully screened by having their background checked by a national registry database, so that if that person has committed a crime or a felony, I would be made aware of that person's history. In some communities near Massachusetts' borders, it is common for human service providers to employ residents from adjacent states (i.e. RI, NH, CT, NY). The existing Criminal Offender Record Information (CORI) checks do not capture data for out-of-state residents who work in Massachusetts.

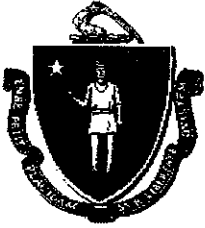
In order to have competent and trustworthy individuals working in the best interest of my son, I need to know that these potential workers have not committed crimes in the past, and will not have the opportunity to create crimes in the future, especially as it relates to my son. It is important to have this national background check bill passed for the mere fact that without it, people in the Commonwealth will not know if a potential worker/individual who has worked or lived out of state, has committed crimes. It should be something that all potential employees should disclose to employers, but the fact remains that this does not happen. People are able to move state to state and not have their past catch up to them until it is too late.



(617) 770-7676 (Voice)  
(617) 770-9499 (TTY)  
(617) 770-1987 (Facsimile)

Thus, to avoid repeat offenses or to have a safeguard in place, so that people with disabilities are secure and safe, it is of utmost importance that this national background check bill be passed. Please support and pass the national background check bill. Not only will it help to maintain the quality of life for people with disabilities, but it will also put families' and caregivers' minds at ease, knowing their loved one is not a vulnerable target of potential abuse by a past offender of the law.

In summary, the Massachusetts Developmental Disabilities Council supports House Bill 523. We applaud Representative Marty Walsh for introducing such an important piece of legislation. It will ensure that vendor agencies have means to access a person's comprehensive criminal history. This legislation will remedy this danger.



*The Commonwealth of Massachusetts*  
*Disabled Persons Protection Commission*

300 Granite Street • Suite 404 • Braintree • Massachusetts • 02184

**DEVAL L. PATRICK**  
GOVERNOR  
**TIMOTHY P. MURRAY**  
LIEUTENANT GOVERNOR  
**CARLA A. GOODWIN, Ph.D.**  
CHAIRPERSON  
**JO ANN SPRAGUE**  
COMMISSIONER

**NANCY A. ALTERIO**  
Executive Director  
  
(617) 727-6465 (V/TTY)  
FAX (617) 727-6469  
Hotline: (800) 426-9009 (V/TTY)  
(888)822-0350 TTY

June 8, 2011

The Honorable Cynthia Stone Creem  
Senate Chair  
Joint Committee on the Judiciary  
State House, Room 405  
Boston, MA 02133

The Honorable Eugene L. O'Flaherty  
House Chair  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

**RE: Testimony in Support of House 523**

Dear Chairperson Creem, Chairperson O'Flaherty and members of the Judiciary Committee:

I am writing in support of House Bill 523. House Bill 523 requires both public and private employees providing services to persons with developmental disabilities through the Department of Developmental Services (DDS) to have a national criminal offender background check. Currently, all employees, both public and private, employed by agencies within the Executive Office of Health and Human Services and their private contract providers are required to have only a Massachusetts criminal offender background check.

The Disabled Persons Protection Commission (DPPC), the Commonwealth's independent agency that responds to abuses committed against persons with disabilities, receives reports of abuse in which the victim is a Massachusetts resident but the alleged abuser/employee resides in another state. Another common scenario is that the alleged abuser/employee currently resides in Massachusetts but previously lived in another state. These situations are especially common in areas of Massachusetts abutting the five neighboring states.

Looking back over the past ten years DPPC has received numerous reports in which the alleged victim lived in Massachusetts and the alleged abuser/employee, although working for a Massachusetts entity, resided in a neighboring state. DPPC received almost 1,000 cases in which the employee worked in Massachusetts but resided in one of the five bordering states. Highlighted below are reports of this type received within the past ten years.

- Rhode Island: 548 cases
- New Hampshire: 210 cases
- New York: 63
- Vermont: 23
- Connecticut: 70

Looking beyond our five neighboring states and as far away as California and Florida, the number of cases in which the alleged abuser/employer resided outside of Massachusetts are also dramatic and of concern as depicted below:

- Florida: 60
- California: 24

None of these numbers include employees who currently reside in Massachusetts but who previously lived out of state. In all of these cases, a Massachusetts criminal background check is not effective in discovering whether or not the employee has a criminal record in his/her home state or another state.

Unless the alleged abuser/employee has a criminal record in Massachusetts, the current system will not reveal at the time of hire if the employee has a criminal record in the state in which he/she resides or in another state. The only way to conduct a complete criminal record background check is to utilize the Integrated Automated Fingerprint Identification System as envisioned by House Bill 523.

The DPPC considers House Bill 523 a good next step in the Commonwealth's continuing efforts to do everything possible to prevent abuse from occurring in the first place. If a national criminal background check had been completed for the abusers/employees in DPPC cases 48224 and 73815, two persons with disabilities would not have had to suffer from being abused and being seriously injured. House Bill 523 will ensure that all potential abusers with criminal records will be identified and that DDS, provider agencies and individuals are well informed when making hiring decision.

For these reasons, DPPC supports House Bill 523. Therefore, I respectfully request that the Committee report favorably on House Bill 523.

Sincerely,

Nancy A. Alterio  
Executive Director



## *The Commonwealth of Massachusetts* *Disabled Persons Protection Commission*

300 Granite Street • Suite 404 • Braintree • Massachusetts • 02184

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

JACK L. McCARTHY  
CHAIRPERSON

CARLA A. GOODWIN, Ph.D.  
COMMISSIONER

JO ANN SPRAGUE  
COMMISSIONER

NANCY A. ALTERIO  
Executive Director

(617) 727-6465

FAX (617) 727-6469

Hotline: (800) 426-9009

V/TTY: (888) 822-0350

### **CAREGIVER HAD CRIMINAL RECORD IN OTHER STATE**

**Case 73815 – Assault and Battery on a Person with a Disability:** DPPC received a report via its 24 hour hotline that alleged victim (ALV) was being physically, emotionally and verbally abused by alleged abuser (ALAB). Specifically, it was alleged that ALAB was beating ALV with a wooden broom handle and that ALV had several severe and unexplained injuries. ALV, who had a host of significant physical and developmental disabilities, is non verbal and resided with ALAB in a shared living situation. ALAB was ALV's sole caregiver, making ALV particularly vulnerable to abuse by ALAB. Upon its review of the matter, DPPC's State Police Detective Unit (SPDU) learned that ALAB had been convicted of drug trafficking in Texas and had served time in federal prison several years earlier. Hence, the SPDU forwarded the matter to the District Attorney's office for review. The ALAB was charged with Assault and Battery on a person with a disability. An interesting note in this case: The reporter, who was anonymous, wanted to know how the ALAB could have obtained employment caring for ALV when the abuser had a "past criminal history."

**Case #48224 – Assault and Battery on a Person with a Disability:** DPPC received a report that alleged victim (ALV) had suffered significant physical abuse at the hands of alleged abuser (ALAB) who worked where ALV resided. It was substantiated that ALAB improperly restrained ALV (a young man with an intellectual disability) by repeatedly punching and kicking him in the face during a "restraint." DPPC referred the incident to the District Attorney's office which pursued a criminal prosecution of ALAB. DPPC learned that ALAB had a "clean" criminal record in Massachusetts. However, further research on the part of DPPC's State Police Detective Unit; it was revealed that ALAB had an extensive criminal record in other states – including both New York and Florida. ALAB's criminal record in states outside of Massachusetts included assault and battery and drug related charges. None of which was on his Massachusetts' record.

Testimony in support of  
**HB523 An Act to require national background checks**  
06/08/2011

My name is Paul Willenbrock and I am a parent/guardian and a member of the Governmental Affairs Committee of at the ARC of Massachusetts. My wife and I have been homeowners in Beverly, MA since 1974.

I am specifically speaking in strong support of **HB523 An Act to require national background checks** because of my daughter, Megan, and people like my daughter.

Megan Willenbrock is 32 with diagnoses of Mental Retardation, Seizure Disorder, and Pervasive Developmental Disorder. She has severe Mental Retardation and in no way is able to speak for herself. She is defenseless. She cannot say that someone is hurting her.

The medical community has never ever been able tell my wife or me what caused her disabilities.

Yet Megan has much value. She can and does show concern for others in pain and has many ways of making people laugh.

My daughter lives in a group home and regularly attends a day Habilitation program. Over the last few years, two instances of her being abused have been reported to me from her group home. The first time, she had been dragged downstairs with no clothes on. She had severe rug burns and a bloodied lower back. The second time a staff member was forcibly holding her mouth open to brush her teeth and sitting on top of her in order to dress my daughter.

I believe that employees working with people with severe disabilities do come from other states to work in Massachusetts. Recently, for example, I noted a direct care member's car with North Carolina plates.

**HB523** will require people who are seeking employment with the Department of Developmental Services or its vendor agency programs to have a national criminal background check, one that goes beyond Massachusetts. This bill is a proactive step towards helping insure the personal safety of my daughter and people like her.

President John F. Kennedy once noted that individuals with mental Retardation were the victims of fate but should not be the victims of neglect. Passage of this important bill **HB523** will be another example of our Commonwealth not neglecting this important group of citizens.

My wife and I wish to thank Senator Fredrick Berry for his years of proactive service to people with developmental disabilities. We recognize and appreciate the overall quality of the Massachusetts Department of Developmental Services and in particular Shore Educational Collaborative and North Shore Residential Services.

Submitted by  
Paul K Willenbrock, Ed.D.  
978-985-7942  
Paul.Willenbrock@verizon.net

# HOUSE . . . . . No. 523

## The Commonwealth of Massachusetts

### AN ACT TO REQUIRE NATIONAL BACKGROUND CHECKS.

*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 172 of chapter 6 of the General Laws is amended by inserting the following new section 172J as follows:-

Notwithstanding any other provision of law, any person seeking employment or a position as a regular volunteer or trainee to provide services for, or, on behalf of the Department of Developmental Services or its vendor agency programs where such employment or position involves potential unsupervised contact with individuals with an intellectual disability (or other individuals determined to be eligible clients of the Department of Developmental Services) shall be required to have a national criminal background check prior to assuming said employment or position. Said criminal background check will be determined by using the Integrated Automated Fingerprint Identification System maintained by the Federal Bureau of Investigation's Criminal Justice Information Services Division.

It shall be the responsibility of the Commonwealth to ensure that said criminal background checks are processed for review prior to such time that an individual seeking employment or a position as a volunteer or trainee assumes said employment or position.

Any person who willfully requests, obtains or seeks to obtain criminal offender record information or the equivalent from other jurisdictions under false pretenses, or who willfully communicates or seeks to communicate criminal offender record information or the equivalent from other jurisdictions to any agency or person except in accordance with the provisions of sections one hundred and sixty-eight to one hundred and seventy-five, inclusive, or any member, officer, employee or agency of the board or any participating agency, or any person connected with any authorized research program, who willfully falsifies criminal offender record information, or the equivalent from other jurisdictions, or any records relating thereto, shall be in violation of this provision.



The Criminal History Systems Board, the Disabled Persons Protection Commission, and the State Police shall collaborate and jointly oversee the participation by all Department of Developmental Services providers in any interstate system for the exchange of criminal offender record information or the equivalent from other jurisdictions and shall be responsible to assure the consistency of such participation including redacting information so that criminal offender record information or the equivalent from other jurisdictions is limited to convictions and open cases, and, that juvenile records are not made available. Any provider of services to individuals pursuant to a contract with the Department that hires, retains or supervises an employee, volunteer or trainee whom the provider knows or should know, will potentially come into unsupervised contact with such individuals, and, because of a criminal conviction or pending criminal charge of a nature that would pose a unacceptable risk of physical harm to or financial exploitation of such individuals shall be in violation of this provision. The hiring authority shall use, when making a determination of unacceptable risk, the guidelines as provided by existing Department of Developmental Services regulations.

The Board shall afford an individual who may be wrongly associated with a record or whose record may contain errors, the opportunity to contest the accuracy of an out-of-state record. Each individual shall have the right to inspect, and if practicable, copy, criminal offender record information or the equivalent from other jurisdictions which refers to him. If an individual believes such information to be inaccurate or incomplete, the Criminal Systems History Board shall notify the state whose record is contested and assist the individual in following the process for correcting inaccuracies in that state, as well as notify the agency to whom the record was disseminated that the record is being contested and that no adverse action can be taken by that agency pending a resolution of the dispute. This matter should be resolved as soon as practicable but no later than 30 days after notification. Agencies at which criminal offender records or the equivalent from other jurisdictions are sought to be inspected shall prescribe reasonable hours and places of inspection, and shall impose such additional restrictions as may be approved by the board, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them.



**JOINT COMMITTEE ON THE JUDICIARY**

**TESTIMONY OF TRICIA WAJDA  
DIRECTOR OF PUBLIC AFFAIRS  
PLANNED PARENTHOOD LEAGUE OF MASSACHUSETTS**

**JUNE 8, 2011**

My name is Tricia Wajda and I am the Director of Public Affairs for Planned Parenthood League of Massachusetts. I thank Chairwoman Creem and Chairman O'Flaherty and members of the Joint Committee on the Judiciary for affording me the opportunity to provide testimony on H 482, the so-called "Women's Right to Know" bill. I am here today to share with the committee Planned Parenthood's opposition to this bill because it is misguided and unnecessarily intrudes upon doctor-patient relationship.

Planned Parenthood League of Massachusetts is the largest freestanding reproductive health care provider in the state. For over 80 years, our organization has protected and promoted sexual and reproductive health and freedom of choice through clinical services, education and advocacy.

When women and couples face complicated and difficult decisions about ending a pregnancy, their doctors must be able to provide them with the most up-to-date medical information that considers the patient's individual needs. Women and couples come to Planned Parenthood because they trust us to answer all of their questions and to review all of their options. They trust us to put their health and safety first.

Our patients do not reach their decisions easily. They have carefully weighed their options before reaching what is a personal and private decision. Only the pregnant woman, in consultation with her doctor, can decide what is best for her and her family.

Massachusetts already requires that women give their full and informed consent before deciding to have a termination. Much like patients undergoing other procedures, patients seeking an abortion must be informed about the procedure, their options and any potential complications.

So then why are we here today to talk about mandated physician scripts, biased counseling materials and delaying care? Contrary to its sponsors' assertions, H 482 is not about strengthening informed consent. It's about creating unnecessary barriers for women exercising their legal right to obtain a safe abortion. It's about pressuring women to make decisions that may not



be in their best medical interest or the best interests of their families. It's about telling doctors how to be doctors. One of the cornerstones of American medicine is that physicians have special relationships with their patients where they jointly decide on care and treatment that meets the individual needs of the patient. This legislation would dramatically change this Doctor/patient relationship.

Planned Parenthood is also concerned by the bill's vague language, since it leaves us to guess how it might be implemented if it becomes law. At Planned Parenthood, we have patients with language barriers. We have patients who lack literacy skills or internet access. And we have patients who are victims of domestic violence who are too afraid to use the phone or computer in their own home. For all of those patients, the requirements proposed in H 482 could mean extra visits. And extra visits mean extra time off at work, extra costs in transportation and child care and extra emotional turmoil.

As we seek to improve the delivery of health care services on both the state and national level, we should be spending time on proposals that will improve patient care. Nothing about H 482 will improve patient care. In fact, it will only reduce access and compromise patient care.

Across the country, we are seeing State Houses pass sweeping legislation that restricts women's access to critical health care services. I ask the members of the Joint Committee on the Judiciary to oppose this bill and send a message to the rest of the country that Massachusetts trusts the judgment of women and their doctors and it will stand by a woman's right to obtain a safe and legal abortion.

Thank you.

Headquarters  
Greater Boston Health Center  
1055 Commonwealth Avenue  
Boston, MA 02215

Fitchburg Health Center  
391 Main Street  
Fitchburg, MA 01420

Marlborough Health Center  
91 Main Street  
Marlborough, MA 01752

Milford Health Center  
208 Main Street  
Milford, MA 01757

Plan: A Planned Parenthood  
Express Center  
Davis Square Plaza  
260 Elm Street, Suite 109  
Somerville, MA 02144

Western Massachusetts  
Health Center  
3550 Main Street, Suite 201  
Springfield, MA 01107

Central Massachusetts  
Health Center  
470 Pleasant Street  
Worcester, MA 01609



*Massachusetts Citizens For Life, Inc.*

TESTIMONY TO THE JOINT COMMITTEE ON THE JUDICIARY

IN SUPPORT OF H482 "WOMAN'S RIGHT TO KNOW LAW" (LAURA'S LAW)

Thank you for the opportunity to speak with you today. My statement will be brief and to the point. I come here to support the **Women's Right To Know Law (Laura's Law)**, as a matter of justice for women. I come here to advocate for **safe** health care for women.

My name is Edith McDaniel and I am a post-abortive woman and the Regional Coordinator for Silent No More Aware Campaign. SNMAC is a group dedicated to helping women come to terms with past abortions and the mental and physical affects it has had on them. I **now** know first-hand the risks, long and short-term, associated with abortion. I also know, first-hand, that women who enter abortion clinics are not given sufficient information to form an intelligent decision on such a grave matter.

My own experience was to be asked, before the abortion, how I had come to be pregnant and if I needed a prescription for birth control pills. I was never informed about what the procedure entailed and how it would be done. I never met with the doctor who would perform the procedure – he came in did the procedure and left – I never even knew his name. After the procedure I was told to follow-up with my own doctor if there was excessive bleeding. That was it!

I have had oral surgery and surgery on my wrist – both out-patient procedures – and met with the physician and anesthesiologist several days before hand. I was given extensive information on the procedure and the risks – both short and long term!

Women deserve to be given full disclosure on such a serious procedure. They need to know the long-term risks to fertility and of cancer risks.

Many, I'm sure, will come here to tell you that providing the type of information we are talking about is a burden! Since when is giving patients vital medical information a burden! Shouldn't the burden always be on the health care providers to be sure all patients, including women seeking abortion, have the basic information on the procedure and its associated risks?

I hope you will bear this in mind in this process and I thank you for your time!

Edith B. McDaniel  
Regional Coordinator  
Silent No More Awareness Campaign  
June 8, 2011

---

*The Schrafft Center • 529 Main Street Boston, MA 02129-1100 • (617)242-4199 • Fax (617)242-4965*

*109 Center Street P.O. Box 96 Ludlow, MA 01056 • (413)583-5034 • Fax (413)547-6279*

*www.masscitizensforlife.org*

Legislative Testimony  
By Howard Bernstein

Hi. My name is Howard Bernstein and I am here to testify in support of "Laura's Law" and the "Sex Selected Abortion Prevention Bill". Too many women do not think about exactly what they are doing or what they are terminating when they go to have an abortion. Evidence suggests that many women come to regret the choice they made later, and have difficulty coping with the decision to terminate what may arguably be a human life. "A Woman's Right to Know" bill would give women the information to consider how a foetus develops and what the small baby looks like at various points in pregnancy. This might cause some women to reconsider and decide not to go through with an abortion. It is better that women consider what a baby looks like inside the womb before an abortion than to deal with the nightmare of regret later after the decision has already been made.

Abortion is also an invasive medical procedure that has tremendous risks and side effects common to any medical procedure or surgery. In the rush to carry out a woman's purported wishes, too many women are not informed of the risks and side effects of this medical procedure or surgery. It is good medical practice to inform a patient of the risks and side effects of any medical procedure, including one as invasive and as personal as the decision to have an abortion. Particularly in later term abortions, which have not been adequately outlawed in Massachusetts or across the nation, the method of abortion often involves dismembering the foetus into smaller parts and removing them one by one, or by collapsing the skull and removing the baby whole. These are difficult procedures and surgeries to perform in any circumstances, and women should be made aware of the risks. "Laura's Law" would require that a physician orally tell women about the risks involved. It would also require women to be informed about the possible psychological impact, which too often become a reality only after the abortion.

“Laura’s Law” would also require the abortion provider to provide an ultrasound upon the woman’s request. This would give the woman an opportunity to consider just what it is that she is terminating. I think everyone can agree, no matter where they stand on the constitutionality of Roe or their opinion on abortion, that the less abortions that are performed the better off society and women are. By giving women access to more information, including the side effects of abortions and the opportunity to view the small child she is aborting, women are more likely to consider the very real costs to an abortion and make a better long term decision if this is something she wants to go through with. “Laura’s Law” in no way takes away the woman’s ultimate right under Roe and under the practice of this country to go ahead with the decision to abort if after considering new information she decides this is still in her best interests. It simply gives a woman access to a wider range of information too long denied in a spurious effort to protect a woman’s choice.

The “Sex Selected Abortion Prevention” bill would outlaw sex selections in abortions. This is a practice too widely carried out around the world where sex selection in favor of a male is performed because of cultural values valuing a male over a female for a variety of reasons. This has led in many countries to an imbalance in the sex ratio, where men are more common than women and there are not enough women to balance off the number of men. This is no longer a practice that is only available in other countries. New home testing kits have allowed individuals to determine the sex of their unborn children right here in this country early on in the pregnancy. What was once available in other countries is now available right here in this country. With the wide availability to abort here in this country, we should make sure that couples are not simply selecting the sex they want for their unborn children and aborting their baby girls. This is anti-feminist and anti-woman. With the recent upturn in immigration over the past several decades, there is the real risk and reality that these immigrants can bring their cultural practices with them and decide to abort baby girls. Some evidence suggests this is happening. Census data shows that among certain immigrant populations there are more boys being carried to term than there are girls.

In a New York Times article dated June 15, 2009 entitled "U.S. Births Hint at Bias for Boys in Some Asians", the author analyzes census data and determines that sex selection is a reality for Asian immigrants, particularly if the first child was a girl. Asian families may want to have a boy and sex select for a boy the more girls they have previously had. This is a reality that is no longer confined to other countries. We should value males and females equally in this country and make a statement that while this may be going on in other countries, it is not a practice we condone here.

Neither bill would ultimately take away the right for a woman or a couple to go ahead with an abortion. "Laura's Law" would simply give a woman more information and the possibility to take more time to reflect on what she is doing, thus improving the possibility she would not go through with a grizzly procedure that can have harmful physical and psychological consequences. This would probably lead to a situation where abortion is rarer in Massachusetts which even so-called pro-choice advocates say they advocate. And the "Sex Selected Abortion Prevention Bill" would make sure we are protecting women by forbidding only sex selection in the reasons to have an abortion. Neither contradict Roe v. Wade and both should be passed by this committee. Thank you for your time.

Howard Bernstein  
18 Leonard Ave.  
Cambridge, MA 02139  
hbernste@aol.com  
301-379-7348

**Massachusetts Citizens for Life**

**529 Main Street**

**Charlestown, Ma, 02129**

Good afternoon. I am Anne Fox, President of Massachusetts Citizens for Life, the oldest and largest pro-life organization in the state. I am here to support, the Woman's Right to Know Bill, also known as "Laura's Law".

Recently a friend brought her puppy to the vet because he had swallowed something that was bothering him. She was impressed with the permission papers she had to sign. She sent them to us and asked how they compared with the releases signed by women having abortions. To our horror, we found the information for the dog was much more complete than for the woman.

In society's zeal to make abortion available to all with no barriers, we have created a surgical procedure lacking the safeguards of other procedures.

On September 13, 2007, Laura HopxSmith died during an abortion. The doctor was convicted of manslaughter for careless practices that would never be used in any other medical procedure. Her parents are convinced that, had she been given adequate information as to the baby's development and the possible risks to herself, she would not have chosen to proceed and would be alive today. Let us bring standards for abortion in Massachusetts up to the level of other medical procedures.

Most states have rectified these problems by passing laws that require the same kind of information and consent for abortion as for other surgical procedures. Here in Massachusetts we still treat women approaching abortions as second class citizens with no right to know what will be happening to them.

Massachusetts Citizens for Life urges you to report out favorably on HB 482 a Woman's Right to Know. Let's bring medical procedures for women up to par with other medical procedures.

We also urge you to report out favorably on HB 484. Unborn baby girls are being discriminated against and destroyed simply because they are girls. Abortions for sex selection must stop!

Again, Massachusetts Citizens for Life supports HB 482 and HB 484.

June 8, 2011



***Introduction***

I am Superintendent Chris Burke of the Cambridge Police Department. I have been a police officer for 28 years and am currently the Commander of the Support Services Division which includes all investigative functions. Commissioner Haas has asked that I represent him today; he would like to have attended but was unable to do so because he is out of town on business.

***Key message***

Like Boston, Northampton and Amherst, Cambridge has policies to protect transgender residents. In 1984 the City of Cambridge enacted an ordinance that established the Human Rights Commission. The purpose of the ordinance was to protect the human rights of all citizens of the City. The ordinance made it an unlawful practice for the City or any of their agencies, departments, or employees to discriminate against any person in the provision of services, employment, housing, education or other opportunities because of race, color, sex, age, religious creed, disability, national origin, sexual orientation, gender, marital status, family status, military status or source of income of such persons.

***Policy since 1997***

In 1997 this ordinance was amended to specifically include gender identity and expression. Much like the proposed Transgender Equal Rights Bill being considered today, the City of Cambridge sought to offer protection to transgender people from being harassed, fired from a job, denied access to a public place, or denied or evicted from housing. In addition to the protections listed above, the Transgender Equal Rights Bill will go a step further and add offenses regarding gender identity or expression to the list of offenses that are already subject to treatment as hate crimes.

***No incidents of abuse or defense to commit crimes***

Since this 1997 amendment there have been no incidents or issues regarding persons abusing this ordinance or using them as a defense to commit crimes. Specifically, as has been raised as a concern if the bill were to be passed, there have been no incidents of men dressing up as women to commit crimes in female bathrooms and using the city ordinance as a defense.

***Passage of this bill in Massachusetts***

I feel, as a member of the law enforcement community, husband, father and citizen of the Commonwealth, this bill in Massachusetts would not result in any more harm for women and children. In fact, what it would do instead is protect the transgender community from discrimination and violence and provide an important tool for law enforcement in the investigation and prosecution of bias crimes against the transgender community.



*The Commonwealth of Massachusetts*  
*Disabled Persons Protection Commission*

300 Granite Street • Suite 404 • Braintree • Massachusetts • 02184

DEVAL L. PATRICK  
GOVERNOR  
TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR  
CARLA A. GOODWIN, Ph.D.  
CHAIRPERSON  
JO ANN SPRAGUE  
COMMISSIONER

NANCY A. ALTERIO  
Executive Director  
  
(617) 727-6465 (V/TTY)  
FAX (617) 727-6469  
Hotline: (800) 426-9009 (V/TTY)  
(888)822-0350 TTY

June 8, 2011

The Honorable Cynthia Stone Creem  
Senate Chair  
Joint Committee on the Judiciary  
State House, Room 405  
Boston, MA 02133

The Honorable Eugene L. O'Flaherty  
House Chair  
Joint Committee on the Judiciary  
State House, Room 136  
Boston, MA 02133

**RE: Testimony in Support of House 523**

Dear Chairperson Creem, Chairperson O'Flaherty and members of the Judiciary Committee:

I am writing in support of House Bill 523. House Bill 523 requires both public and private employees providing services to persons with developmental disabilities through the Department of Developmental Services (DDS) to have a national criminal offender background check. Currently, all employees, both public and private, employed by agencies within the Executive Office of Health and Human Services and their private contract providers are required to have only a Massachusetts criminal offender background check.

The Disabled Persons Protection Commission (DPPC), the Commonwealth's independent agency that responds to abuses committed against persons with disabilities, receives reports of abuse in which the victim is a Massachusetts resident but the alleged abuser/employee resides in another state. Another common scenario is that the alleged abuser/employee currently resides in Massachusetts but previously lived in another state. These situations are especially common in areas of Massachusetts abutting the five neighboring states.

Looking back over the past ten years DPPC has received numerous reports in which the alleged victim lived in Massachusetts and the alleged abuser/employee, although working for a Massachusetts entity, resided in a neighboring state. DPPC received almost 1,000 cases in which the employee worked in Massachusetts but resided in one of the five bordering states. Highlighted below are reports of this type received within the past ten years.

- Rhode Island: 548 cases
- New Hampshire: 210 cases
- New York: 63
- Vermont: 23
- Connecticut: 70

Looking beyond our five neighboring states and as far away as California and Florida, the number of cases in which the alleged abuser/employer resided outside of Massachusetts are also dramatic and of concern as depicted below:

- Florida: 60
- California: 24

None of these numbers include employees who currently reside in Massachusetts but who previously lived out of state. In all of these cases, a Massachusetts criminal background check is not effective in discovering whether or not the employee has a criminal record in his/her home state or another state.

Unless the alleged abuser/employee has a criminal record in Massachusetts, the current system will not reveal at the time of hire if the employee has a criminal record in the state in which he/she resides or in another state. The only way to conduct a complete criminal record background check is to utilize the Integrated Automated Fingerprint Identification System as envisioned by House Bill 523.

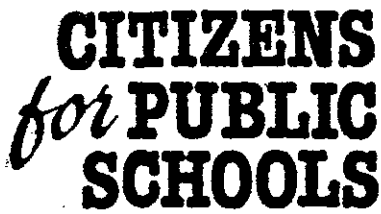
The DPPC considers House Bill 523 a good next step in the Commonwealth's continuing efforts to do everything possible to prevent abuse from occurring in the first place. If a national criminal background check had been completed for the abusers/employees in DPPC cases 48224 and 73815, two persons with disabilities would not have had to suffer from being abused and being seriously injured. House Bill 523 will ensure that all potential abusers with criminal records will be identified and that DDS, provider agencies and individuals are well informed when making hiring decision.

For these reasons, DPPC supports House Bill 523. Therefore, I respectfully request that the Committee report favorably on House Bill 523.

Sincerely,

*Nancy A. Alterio*

Nancy A. Alterio  
Executive Director



CPS

18 Tremont Street, Suite 320 Boston, Massachusetts, 02108

Phone: (617) 227-3000

Fax: (617) 227-3453

[office@citizensforpublicschools.org](mailto:office@citizensforpublicschools.org)

June 8, 2011

## Transgender Bill

Good Afternoon

My name is Marilyn Segal - I am the Executive Director of Citizens for Public Schools.

Thank you for giving me this opportunity to speak in favor of H 502.

One of the goals of the CPS organization is to guarantee every student a well-rounded public education that meets the needs of the whole child; that a child's basic emotional and physical needs are addressed so every child is able to succeed in school and beyond.

A child may look and act differently in the eyes of some, but we feel strongly that everyone has a right to a quality education. Part of that quality must be feeling safe and comfortable in the school environment.

There is no group of students that is subject to more ridicule than transgender youth. Many students are bullied for being, or even appearing different. Students are bullied for not being in the right social clique or wearing the wrong clothes. Transgender students are frequently targeted in bullying. This constant harassment has harmful long-term side effects. It often makes the student feel worthless, lonely, and depressed. This results in harmful behaviors such as cutting and suicide. Such bullying does not just have harmful consequences for the bullied students, but has a negative impact on the entire school environment.

The mental and emotional damage of bullying is too great for us to ignore it any longer. These children need special protections. It is very difficult to get that quality education in a hostile environment. It is up to us as adults to make sure that they have a safe and nurturing environment from the day they enter public school until they graduate.

d June feels a person is chosen now  
to hide from a criminal act or  
for private reasons

Representative Eugene L. O'Flaherty

Joint Committee on the Judiciary ;

A testimony on the need for passage of An act Relative to transgender equal rights,

My name is Janice Josephine Carney,  
I live in Beverly Mass 01915.

I am a happy, well  
adjusted - woman that  
has had proper medical treatment  
following the Benjamin standard of  
care -

I am a Service Connected Disabled Vietnam Veteran / a retired federal employee. I am

~~I~~ am a parent of 3 children here  
I attend the church of my choice most Sunday's to

In 1999 months before, I began by life as an open transgender woman, I had two part-time jobs. I  
was a substitute teacher and a church sexton. Within six months they stopped calling me even  
though there was a strong need for experienced part time teachers. The church by way of  
harassment made life unbearable for me. For ten years I got nothing but praise as John. In less  
than ninety days as Janice: as the minister put it; "No one is forcing you to keep the job, I will accept  
your resignation any time."

Today  
and  
not  
a  
barrier  
to

I have been denied apartments rentals, with management personnel telling me that I will not fit in.

I am 100% sure that if the state of Massachusetts takes a legal stance to make discrimination in  
housing and employment, based on gender indemnity/gender expression, illegal; that transgender  
citizens life's will be improved.

anyone

As A Transgender Disabled Veteran that put my life at risk in Vietnam, My life would be much better  
if I knew that being transgender does not somehow make me less then, that being transgender  
allows ridicule, allows harassment, allows discrimination as a social norm in my home state of  
Massachusetts .

I ~~leadly~~ changed my name & had the required  
medical procedures - to <sup>correct</sup> change the gender on my  
driving license and Birth certificate 10 years ago.  
Still today and Background check done for  
housing or employment - releases my former  
name & gender —

Janice Josephine Carney @ Gmail. Com

MASSACHUSETTS CATHOLIC CONFERENCE  
WEST END PLACE

150 Staniford Street, Boston, MA 02114-2511

Phone (617) 367-6060

FAX (617) 367-2767

LEGISLATIVE TESTIMONY

To: Members of the Joint Committee on Judiciary  
From: James F. Driscoll, Esq., Executive Director  
Re: House 2239, An Act Restoring Free Speech and Public Access  
Date: June 8, 2011

The Massachusetts Catholic Conference ("Conference") respectfully submits this testimony in support of House 2239, "An Act Restoring Free Speech and Public Access." The legislation would repeal M.G.L. Chapter 266, § 120E½. This statute forbids all individuals except abortion clinic personnel and their clients from entering for any purpose all designated areas located immediately in front of the entrances to any abortion facility in Massachusetts. These areas, thirty-five feet wide and extending to the street, are colloquially referred to as "buffer zones." The statute imposes criminal penalties for any violations.

The statute should be repealed because it creates no-speech zones in areas traditionally regarded as open to the public precisely for the purposes of free expression and assembly. The statute prohibits speakers from engaging in all forms of peaceful speech, including the distribution of leaflets, display of signs, consensual conversation and communication with others from a normal conversational distance. The statute therefore goes far beyond the more limited time, place, and manner regulations found constitutional in *Hill v. Colorado*, 530 U.S. 703 (2000).<sup>1</sup> The statute is currently the subject of a First Amendment challenge in the federal courts.<sup>2</sup>

In the *Hill* case, the Supreme Court recognized that states could protect unwilling listeners from close and unwanted approaches,<sup>3</sup> but many women entering abortion clinics appreciate and take advantage of offers of help and information at a difficult time. Besides penalizing speakers, the Massachusetts buffer zone statute interferes with the ability of willing listeners to receive helpful information in the public forum. The current statute thus violates the First Amendment's free speech guarantee.<sup>4</sup>

There is already a statute on the books in Massachusetts that prohibits individuals from obstructing any entrances to medical facilities.<sup>5</sup> Aside from the important First Amendment concerns, criminalizing the peaceful and non-obstructive use of the sidewalks is unnecessary, punitive and unfairly excessive. For these reasons, the Conference supports the repeal of the buffer zone law and urges the Committee to give House 2239 a favorable report recommending that the bill ought to pass.

The Massachusetts Catholic Conference is the public policy office of the Roman Catholic Bishops in the Commonwealth, representing the Archdiocese of Boston and the Dioceses of Fall River, Springfield, and Worcester.

<sup>1</sup> The *Hill* decision upheld a statute that required individuals entering a designated zone outside the entrances of health facilities to gain the consent of other individuals before approaching closer than eight feet to counsel against abortion, but did not prevent speakers from approaching if consent is given or from standing in one spot within the zone to offer leaflets or to hold signs.

<sup>2</sup> After the U.S. Supreme Court declined in 2010 to hear a preliminary appeal from lower court decisions rejecting a facial challenge, plaintiffs in *McCullen v. Coakley* returned to trial court to continue the case with regard to their "as applied" claims. The case is presently before Judge Joseph Tauro of the Massachusetts Federal District Court in Boston. Many speculate that the Supreme Court may have determined initially that it would be better to hear both the facial and as-applied issues together upon a subsequent appeal.

<sup>3</sup> *Hill*, 530 U.S. at 729.

<sup>4</sup> The plaintiffs challenging the statute argue, and the Conference agrees, that the lower court decisions rejecting a facial challenge erred by ignoring the balance struck in the *Hill* case between the state's interest in safety and the constitutionally protected right to communicate to willing listeners. The current statute is far more restrictive of public forum speech than what the Court permitted in *Hill*.

<sup>5</sup> M.G.L. chapter 266, § 120E.