

# Legislative Brief

## An Act Relative to Transgender Equal Rights

House Bill filed by Rep. Carl Sciortino & Rep. Byron Rushing

Senate Bill filed by Sen. Benjamin Downing & Sen. Sonia Chang-Diaz

### Summary and Background

The Transgender Equal Rights Bill would add "gender identity and expression" to existing Massachusetts civil rights laws, which currently prohibit discrimination on the basis of age, race, creed, color, national origin, sexual orientation, sex, and marital status in the areas of employment, housing, public accommodations, education, and credit. The bill would also add offenses regarding gender identity or expression to the list of offenses that are subject to treatment as hate crimes. The bill defines gender identity and expression as "a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's physiology or assigned sex at birth." This is consistent with the Massachusetts Commission Against Discrimination's past decisions, as well as Boston's 2002 transgender anti-discrimination ordinance.

### What does "gender identity" and "gender expression" mean?

Gender identity is one's internal, personal sense of being a man or a woman. Most people don't experience a difference between their sex and their gender identity. For transgender people, however, the sex they were born as and their own internal sense of gender identity do not match. Therefore, transgender people will change their gender to match their internal sense of themselves. Gender expression refers to how a person expresses their gender identity, or the cues people use to identify another person's gender. This can include clothing, makeup, behavior, speech patterns, and mannerisms. Some people's gender expression does not conform with traditional gender stereotypes of how men or women should look or act.

### Why is it needed?

Transgender people in Massachusetts frequently encounter unequal treatment in employment, schools, housing, public accommodations, and access to health care. They also report high incidences of violence and harassment. During a 10-month period in 2009 and 2010, MTPC and other organizations that serve transgender people received 297 calls from transgender men and women seeking assistance. Callers ranged from a man who had been fired from his job after he was outed as transgender, to a woman who'd been attacked with a beer bottle by passersby who called her a "freak" as she walked down the street. A July 2009 report by the Massachusetts Department of Public Health found that transgender persons had worse outcomes with respect to self-reported health, disability status, depression, anxiety, suicide ideation, and lifetime violence victimization compared with other state residents. The report concludes:

"Support of non-discrimination protection for transgender persons could help reduce stigma and by extension, improve health."

### Is MA the first to include "gender identity or expression" in non-discrimination law?

No. Nationwide, **13 states, Washington D.C., and 133 cities and counties** (including Boston, Cambridge, Amherst, and Northampton) have passed non-discrimination laws or ordinances protecting people on this basis. States included are: California, Colorado, Hawaii, Illinois, Maine, Minnesota, New Jersey, New Mexico, Rhode Island, Vermont, Iowa, Oregon, and Washington.

Furthermore, many employers based in Massachusetts and others that are operating in Massachusetts have already adopted non-discrimination policies that include gender identity and expression. These businesses include Bank of America, Beth Israel Medical Center, John Hancock Financial Services, Mass. Mutual Financial, Microsoft, Prudential Financial, and Harvard Pilgrim Health Care.

### Is MA the first to include "gender identity or expression" in hate crimes law?

No. **10 states and Washington D.C.** have included gender identity and gender expression in hate crimes laws: California, Colorado, Connecticut, Hawaii, Maryland, Minnesota, Missouri, New Mexico, Pennsylvania, and Vermont. Additionally, the *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act* adds sexual orientation, gender identity, gender and disability to existing Federal law.



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This fact sheet was developed by MTPC, GLAD, MassEquality and the Transgender Equal Rights Coalition

# Transgender Equal Rights

February 17, 2011, Governor Patrick signed an **Executive Order** prohibiting discrimination on the basis of gender identity and expression in state employment. We are thrilled with the Governor's commitment to giving all employees of the Commonwealth of Massachusetts, including transgender workers, the chance to earn a living free from the fear that they could be fired for reasons that have nothing to do with their job performance.

The Executive Order applies to all state agencies in the Executive Branch, including executive offices, boards, commissions, departments and quasi-state agencies, as well as businesses and organizations that contract with the Executive Branch.

We know that this Executive Order is badly needed and will make a real difference in the lives of transgender people and their families in Massachusetts. Governor Patrick has done what is within his power to prevent discrimination within state government. But the Executive Order is only a first step. There are still many people who will not be protected under this order because they do not work in state government. Additionally, the order does not and cannot address the many other areas where discrimination based on gender identity and expression persists. It is not a statewide law, and it can be overturned or ignored by successive governors.

#### **Only a statewide law can:**

- Address the problem of violence and hate crimes against transgender people.
- Ensure equal employment opportunities for transgender people in the private sector.
- Protect transgender people from discrimination in housing, credit, education, and public accommodations.

That is why we are asking you today to act quickly to pass "An Act Relative to Transgender Equal Rights," which was filed by Sens. Benjamin Downing and Sonia Chang-Diaz and Reps. Carl Sciortino and Byron Rushing. Only this bill would ensure that *all* residents of the Commonwealth, including transgender people, are treated fairly and equally by the laws of our state.

Respectfully,

#### **The Transgender Equal Rights Coalition:**

Massachusetts Transgender Political Coalition (MTPC)

MassEquality

Gay and Lesbian Advocates and Defenders (GLAD)

National Association of Social Workers, MA (NASW)

Mass Gay and Lesbian Political Caucus (MGLPC)

National Organization for Women, MA (MassNOW)

ACLU of Massachusetts

Mass LGBTQ Bar Association



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# Transgender Equal Rights

## Ty: 'It's not just about us, it's also about our families'

I am a parent of two teenage sons, I am a journalist and I am an interfaith leader, and I am also a transgender man.

Shortly before I transitioned, I was presenting as male, but my paperwork still said female. I went into a temp agency to apply for a job, went through an office skills test, had a wonderful experience with that, filled out their paperwork, and handed over my driver's license, which at the time still identified me as female. The person that I was interacting with had clearly read me as male and had been wonderful up until that point. As soon as she saw that my driver license said "female," her entire interaction with me changed, her demeanor changed. And I didn't know at the time that she did anything with that information, but six months later I finally got a call from the agency, asking me if I was still looking for work, and I said I was. They asked, "Is it true that you're only interested in working at Smith College?" And it really surprised me because I had never said anything about that. But they had clearly come to the conclusion that Smith College, as a women's college with a number of lesbians on campus, would probably know what to do with somebody who was female and looked male.



Even now, looking for a job, I run into difficulties around being transgender because I need to provide references for any job I apply for. Even though I'm usually very well-qualified and I have had a very positive work experience and work history, it is still challenging to find references where my previous employers knew me as male and would know the correct pronouns and name to use. There are a number of people that I've worked for in the past who don't know that I transitioned, so being able to provide their names as a reference would be a problem to getting a job. So when I'm applying for a job now I have to carefully consider not just whether I'm qualified for the job, but whether I also have the references that I can actually use to match that job.

When you're considering **transgender equal rights**, whether it's for employment or housing or any other kind of civil rights, one of the most important things to remember is that it's not just about us, it's also about our families. Everything that I've experienced as a transgender person has affected my children. And some of that has been wonderful and broadened their world, broadened their minds, and some of that's been hard. There have been times that it's been difficult for us financially because of my difficulty in finding work. So I think that's an important thing to keep in mind: that transgender people are not just people, but they are family members and community members.



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For more stories about the experiences of transgender families - visit [www.transpeoplespeak.org](http://www.transpeoplespeak.org)

## If These People Had Lost Their Jobs Due to Transgender Discrimination, Our Commonwealth Would Suffer Greatly



**Joanne Herman**  
**Boston, MA**

Joanne Herman transitioned to live as a female in 2002, when she was 47. Joanne has been employed since then as Financial Controller for New England Foundation, a 5.5 million dollar public charity based in Boston. Joanne secured this position right before her transition, when her then-employer made it clear she would not be allowed to keep her job if she transitioned. Joanne is the first transgender person ever elected to the Board of Directors of Fenway Health, Gay and Lesbian Advocates and Defenders, and Point Foundation. She is the first openly transgender member of the congregation of Old South Church in Boston. Joanne is the author of the highly regarded book, *Transgender Explained For Those Who Are Not*. Joanne blogs regularly about transgender issues for *The Huffington Post*. Joanne is one of the first openly transgender alumnae of Dartmouth College, and a graduate of the last all-male class. Dartmouth's President James Wright awarded her a Class of 1975 diploma in her new name in 2006. She holds a BA in Government and Economics from Dartmouth and an MS/MBA from Northeastern University. Joanne has been active in Boston philanthropy. Most notably, she endowed in 2007 the Barbara W. Herman annual lecture at the Museum of Fine Arts in Boston.



**Dana Zircher**  
**Cambridge, MA**

Dana Zircher has more than 15 years professional software design experience. The path of her career began to become defined in the early to mid-1990s while working at Iris Associates – Lotus Corporation. Dana was an engineer on a product called Lotus Notes. Lotus Notes was one of the first commercial software packages to support multi-user collaboration coupled with email integration around business processes. In 2000 She left to join Groove Networks, Inc where she would help to design and implement the next generation collaboration software. Groove Network's original innovations are now known as Software plus Services and are the basis for the industry's recent ventures into Cloud Computing. In 2002, Dana, Jack and Ray Ozzie invented a special kind of Identity in the Cloud which would allow users to interact with software agents in a completely natural fashion. These agents allow a remote user to access data and processes normally restricted to members of a corporation's private network. In 2005 Microsoft Corporation acquired Groove Networks and Dana has been an influential member of the Office product group since then. She continues to innovate in areas such as data synchronization and distribution as well as ad hoc collaboration.



**Diego Miguel Sanchez**  
**Boston, MA**

Diego Miguel Sanchez, APR, is Legislative Assistant to Congressman Barney Frank (MA-4) and is the first openly transgender person to work on Capitol Hill. His policy portfolio includes Health, Human Services, Labor, Veterans, LGBT Civil Rights, Social Security, Federal Employees and The Census. He was named an LGBT Latino Hero by Washington, DC's Mayor Fenty and the District's Latino Affairs Commission. He has decades of experience in social justice and civil rights advocacy, including legislative success in Massachusetts for marriage equality and pharmacy access to clean needles and in Boston gender identity and expression anti-discrimination. He has been named among the Top 100 Most Powerful Latinos in Corporate America and one of the 100 Most Powerful Latinos in Massachusetts in 2007 and 2008. He is the first openly transgender person appointed to a DNC standing committee, named to Platform by Party Chair Gov. Howard Dean. Diego testified before Congress in 2008 on the issue of employment non-discrimination for transgender Americans. He served on President Obama's LGBT Policy Advisory Committee and Transgender Policy Sub-Committee and after being a national LGBT Advisor for Sen. Hillary Clinton's Presidential Candidacy.

*Findings of the*

# NATIONAL TRANSGENDER DISCRIMINATION SURVEY



*by the National Center for Transgender Equality and the National Gay and Lesbian Task Force*

## Massachusetts Results

*There were 283 respondents from Massachusetts.*

### **Workplace Discrimination**

Rates of discrimination were alarming in Massachusetts, indicating widespread discrimination based on gender identity/expression:

- 76% reported experiencing harassment or mistreatment on the job
- 20% lost a job
- 17% were denied a promotion
- 39% were not hired

### **Harassment and Discrimination at School**

- Those who expressed a transgender identity or gender non-conformity while in K-12 settings reported alarming rates of harassment (79%), physical assault (31%) and sexual assault (11%)
- Harassment was so severe that it led 11% to leave a school in K-12 settings or leave higher education

### **Economic Insecurity**

Likely due to employment discrimination and discrimination in school, survey respondents experienced poverty at over three times the rate of the general population:

- 15% of respondents had a household income of \$10,000 or less, compared to 4% of the general population<sup>1</sup>

### **Housing Discrimination and Instability**

Survey respondents experienced blatant housing discrimination, as well as housing instability, much of which appears to stem from the challenges they face in employment.

- 6% were evicted
- 17% were denied a home/apartment
- 10% had become homeless because of their gender identity/expression
- 22% had to find temporary space to stay/sleep
- 18% had to move back in with family or friends
- 25% reported owning their home compared to 67% of the general population<sup>2</sup>

### **Harassment and Discrimination in Accommodations and Services**

Survey respondents experienced discrimination in public accommodations and services, including from government agencies and police, because of their gender identity/expression.

- 58% were verbally harassed or disrespected in a place of public accommodation or service, including hotels, restaurants, buses, airports and government agencies
- 22% were denied equal treatment by a government agency or official
- 9% were denied equal treatment or harassed by judges or court officials
- 24% of those who have interacted with police reported harassment by officers
- 50% reported being uncomfortable seeking police assistance when needed

## Health Care Discrimination and Health Outcomes

- 14% were refused medical care due to their gender identity/expression
- 1.42% were HIV positive, compared to the general population rate of 0.6%<sup>3</sup>
- 25% postponed needed medical care, when they were sick or injured, due to discrimination
- 35% reported attempting suicide at some point in their life, 22 times the rate of the general population of 1.6%<sup>4</sup>

## Bias-Motivated Violence

In questions related to experiences in educational settings, at work, in interactions with police and with family members, at homeless shelters, accessing public accommodations, and in jails and prisons, respondents were asked about physical violence and sexual violence committed against them because of their gender identity/expression. There was no general question asked about whether respondents had ever experienced any bias-motivated violence in other areas of life, such as while walking down the street.

- 18% had been physically assaulted in one of these contexts because of their gender identity or expression
- 7% were sexually assaulted in one of these contexts because of their gender identity or expression

*Note: In the full report of the National Transgender Discrimination Survey, we found that discrimination was pervasive throughout the entire sample, yet the combination of anti-transgender bias and persistent, structural racism was especially devastating. One of our most important findings was that people of color in general fared worse than white participants across the board, with African American transgender respondents faring far worse than all others in nearly every area examined. Due to the sample size of respondents from this state, we were unable to break these state results down by race/ethnicity without creating small sample size problems. However, we expect that people of color in Massachusetts would exhibit the same national pattern.*

*"Injustice at Every Turn: A Report of the National Transgender Discrimination Survey," which provides the national results, is in press and will be available in February 2011 online at [www.thetaskforce.org](http://www.thetaskforce.org) and [www.transequality.org](http://www.transequality.org).*

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<sup>1</sup> U.S. Census Bureau, "Current Population Survey," Annual Social and Economic Supplement (Washington, DC: GPO, 2008).

<sup>2</sup> U.S. Department of Housing and Urban Development, "U.S. Housing Market Conditions, 2<sup>nd</sup> Quarter, 2009" (Washington, DC: GPO, 2009): [http://www.huduser.org/portal/periodicals/ushmc/summer09/nat\\_data.pdf](http://www.huduser.org/portal/periodicals/ushmc/summer09/nat_data.pdf).

<sup>3</sup> United Nations Programme on HIV/AIDS (UNAIDS) and World Health Organization (WHO), "2007 AIDS Epidemic Update" (2007): [http://data.unaids.org/pub/EPISlides/2007/2007\\_epiupdate\\_en.pdf](http://data.unaids.org/pub/EPISlides/2007/2007_epiupdate_en.pdf).

<sup>4</sup> "U.S.A. Suicide: 2002 Official Final Data," prepared for the American Association of Suicidology by John L. McIntosh, Ph.D. Official data source: Kochanek, K.D., Murphy, S.L., Anderson, R.N., & Scott, C. (2004). Deaths: Final data for 2002. National Vital Statistics Reports, 53 (5). Hyattsville, MD: National Center for Health Statistics DHHS Publication No. (PHS) 2005-1120. Population figures source: table 1, p.108. of the National Center for Health Statistics (Kochanek et al., 2004), see [http://www.sprc.org/library/event\\_kit/2002datapgv1.pdf](http://www.sprc.org/library/event_kit/2002datapgv1.pdf)