

HOUSE No. 1722

By Mr. Sciortino of Medford, petition of Carl M. Sciortino, Jr., and others relative to gender based discrimination and hate crimes. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Carl M. Sciortino, Jr.	Douglas W. Petersen
Byron Rushing	Kay Khan
Michael E. Festa	Ruth B. Balsler
Linda Dorcea Forry	Susan C. Fargo
Jay R. Kaufman	Timothy J. Toomey, Jr.
Elizabeth A. Malia	Edward M. Augustus, Jr.
Tom Sannicandro	Martha M. Walz
Ellen Story	Frank I. Smizik
Benjamin Swan	Alice K. Wolf
Denise Provost	Cheryl A. Coakley-Rivera
William N. Brownsberger	Benjamin B. Downing
Peter V. Kocot	

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO GENDER BASED DISCRIMINATION AND HATE CRIMES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 32 of chapter 22C of the General Laws,
2 as appearing in the 2004 Official Edition, is hereby amended by
3 striking out the third paragraph and inserting in place thereof the
4 following paragraph:—
5 “Hate crime”, any criminal act coupled with overt actions
6 motivated by bigotry and bias including, but not limited to, a
7 threatened, attempted or completed overt act motivated at least in
8 part by racial, religious, ethnic, handicap, gender, sexual orienta-
9 tion, or gender identity or expression prejudice, or which other-
10 wise deprives another person of his constitutional rights by
11 threats, intimidation or coercion, or which seek to interfere with
12 or disrupt a person’s exercise of constitutional rights through
13 harassment or intimidation. Hate crime shall also include, but not

14 be limited to, acts that constitute violations of sections thirty-
15 seven and thirty-nine of chapter two hundred and sixty-five,
16 section one hundred and twenty-seven A of chapter two hundred
17 and sixty-six and chapter two hundred and seventy-two.

1 SECTION 2. Subsection (a) of section 39 of chapter 265 of the
2 General Laws, as so appearing, is hereby amended by striking out
3 the first sentence and inserting in place thereof the following sen-
4 tence:— (a) Whoever commits an assault or a battery upon a
5 person or damages the real or personal property of a person with
6 the intent to intimidate such person because of such person’s race,
7 color, religion, national origin, sexual orientation, or disability, or
8 gender identity or expression shall be punished by a fine of not
9 more than five thousand dollars or by imprisonment in a house of
10 correction for not more than two and one-half years, or by both
11 such fine and imprisonment.

1 SECTION 3. Section 89 of chapter 71 of the General Laws, as
2 so appearing, is hereby amended by striking out subsection (f),
3 and inserting in place thereof the following subsection:—
4 (f) The board of education shall establish the information
5 needed in an application for the approval of a charter school;
6 provided, however, that said application shall include but not be
7 limited to a description of: (1) the method for admission to a
8 charter school; (2) the mission, purpose, innovation and special-
9 ized focus of the proposed charter school; (3) procedures for
10 teacher evaluation and professional development for teachers and
11 administrators; (4) the school governance and bylaws; (5) the
12 financial plan for the operation of the school; (6) the educational
13 program, instructional methodology and services to be offered to
14 students; (7) the number and qualifications of teachers and admin-
15 istrators to be employed; (8) the organization of the school in
16 terms of ages of students or grades to be taught along with an
17 estimate of the total enrollment of the school; (9) the provision of
18 school facilities and pupil transportation; and (10) a statement of
19 equal educational opportunity which shall state that charter
20 schools shall be open to all students, on a space available basis,
21 and shall not discriminate on the basis of race, color, national
22 origin, creed, sex, gender identity or expression, ethnicity, sexual

23 orientation, mental or physical disability, age, ancestry, athletic
24 performance, special need, or proficiency in the English language,
25 and academic achievement. In the case of a Horace Mann charter
26 school, the application shall include a statement of the non-
27 instructional services which will continue to be provided by the
28 local school district. There shall be no application fee for admis-
29 sion to a charter school.

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

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

1 SECTION 5. Section 5 of chapter 76 of the General Laws, as
2 so appearing, is hereby amended by striking out the last sentence
3 and inserting in place thereof the following sentence:— No person
4 shall be excluded from or discriminated against in admission to a
5 public school of any town, or in obtaining the advantages, privi-
6 leges and courses of study of such public school on account of
7 race, color, sex, gender identity or expression, religion, national
8 origin or sexual orientation.

1 SECTION 6. Subsection (j) of section 12B of said chapter 76,
2 as so appearing, is hereby amended by striking out the first sen-
3 tence and inserting in place thereof the following sentence:—
4 (j) School committees may establish terms for accepting non-
5 resident students; provided, however, that if the number of non-
6 resident students applying for acceptance to said district exceeds
7 the number of available seats, said school committee shall select
8 students for admission on a random basis; provided, further, that
9 said school committee shall conduct said random selection twice:

10 one time prior to July first and one time prior to November first;
11 provided, further, that no school committee shall discriminate in
12 the admission of any child on the basis of race, color, religious
13 creed, national origin, sex, gender identity or expression, age,
14 sexual orientation, ancestry, athletic performance, physical hand-
15 icap, special need or academic performance or proficiency in the
16 English language.

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

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

1 SECTION 8. Subsection 6 of section 3 of chapter 151B of the
2 General Laws, as so appearing, is hereby further amended by
3 striking out the first sentence and inserting in place thereof the
4 following sentence:— To receive, investigate and pass upon
5 complaints of unlawful practices, as hereinafter defined, alleging
6 discrimination because of the race, color, religious creed, national
7 origin, sex, gender identity or expression, sexual orientation,
8 which shall not include persons whose sexual orientation involves
9 minor children as the sex object, age, ancestry or handicap of any
10 person alleging to be a qualified handicapped person.

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

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

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

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

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

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

4 2. For a labor organization, because of the race, color, religious
5 creed, national origin, sex, gender identity or expression, sexual
6 orientation, which shall not include persons whose sexual orienta-
7 tion involves minor children as the sex object, age, genetic infor-
8 mation, or ancestry of any individual, or because of the handicap
9 of any person alleging to be a qualified handicapped person, to
10 exclude from full membership rights or to expel from its member-
11 ship such individual or to discriminate in any way against any of
12 its members or against any employer or any individual employed
13 by an employer unless based upon a bona fide occupational quali-
14 fication.

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

4 3. For any employer or employment agency to print or circulate
5 or cause to be printed or circulated any statement, advertisement
6 or publication, or to use any form of application for employment
7 or to make any inquiry or record in connection with employment,
8 which expresses, directly or indirectly, any limitation, specifica-
9 tion or discrimination as to the race, color, religious creed,
10 national origin, sex, gender identity or expression, sexual orienta-
11 tion, which shall not include persons whose sexual orientation
12 involves minor children as the sex object, age, genetic information
13 or ancestry, or the handicap of a qualified handicapped person or
14 any intent to make any such limitation, specification or discrimi-
15 nation, or to discriminate in any way on the ground of race, color,
16 religious creed, national origin, sex, gender identity or expression,
17 sexual orientation, age, genetic information, ancestry or the hand-
18 icap of a qualified handicapped person, unless based upon a bona
19 fide occupational qualification.

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

4 3A. For any person engaged in the insurance or bonding busi-
5 ness, or his agent, to make any inquiry or record of any person
6 seeking a bond or surety bond conditioned upon faithful perfor-
7 mance of his duties or to use any form of application in connec-
8 tion with the furnishing of such bond, which seeks information
9 relative to the race, color, religious creed, national origin, sex,
10 gender identity or expression, sexual orientation, which shall not
11 include persons whose sexual orientation involves minor children
12 as the sex object, genetic information, or ancestry of the person to
13 be bonded.

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

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

4 3C. For any person to deny another person access to, or mem-
5 bership or participation in, a multiple listing service, real estate
6 brokers' organization, or other service, organization, or facility
7 relating to the business of selling or renting dwellings, or to
8 discriminate against such person in the terms or conditions of such
9 access, membership, or participation, on account of race, color,
10 religion, sex, gender identity or expression, sexual orientation
11 which shall not include persons whose sexual orientation involves
12 minor children as the sex object, children, national origin, genetic
13 information, ancestry, age, or handicap.

1 SECTION 17. Said section 4 of said chapter 151B is hereby
2 further amended by striking out the first paragraph of subsection
3 6, as so appearing, and inserting in place thereof the following
4 paragraph:—

5 6. For the owner, lessee, sublessee, licensed real estate broker,
6 assignee or managing agent of publicly assisted or multiple
7 dwelling or contiguously located housing accommodations or
8 other person having the right of ownership or possession or right
9 to rent or lease, or sell or negotiate for the sale of such accommo-
10 dations, or any agent or employee of such a person, or any organi-
11 zation of unit owners in a condominium or housing cooperative:
12 (a) to refuse to rent or lease or sell or negotiate for sale or other-
13 wise to deny to or withhold from any person or group of persons
14 such accommodations because of the race, religious creed, color,
15 national origin, sex, gender identity or expression, sexual orienta-
16 tion, which shall not include persons whose sexual orientation
17 involves minor children as the sex object, age, genetic informa-
18 tion, ancestry, or marital status of such person or persons or
19 because such person is a veteran or member of the armed forces,
20 or because such person is blind, or hearing impaired or has any
21 other handicap; (b) to discriminate against any person because of
22 his race, religious creed, color, national origin, sex, gender iden-
23 tity or expression, sexual orientation, which shall not include
24 persons whose sexual orientation involves minor children as the
25 sex object, age, ancestry, or marital status or because such person

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

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

4 7. For the owner, lessee, sublessee, real estate broker, assignee
5 or managing agent of other covered housing accommodations or
6 of land intended for the erection of any housing accommodation
7 included under subsection 10, 11, 12, or 13 of section one, or
8 other person having the right of ownership or possession or right
9 to rent or lease or sell, or negotiate for the sale or lease of such
10 land or accommodations, or any agent or employee of such a

11 person or any organization of unit owners in a condominium or
12 housing cooperative: (a) to refuse to rent or lease or sell or nego-
13 tiate for sale or lease or otherwise to deny or withhold from any
14 person or group of persons such accommodations or land because
15 of race, color, religious creed, national origin, sex, gender identity
16 or expression, sexual orientation, which shall not include persons
17 whose sexual orientation involves minor children as the sex
18 object, age, genetic information, ancestry, or marital status, vet-
19 eran status or membership in the armed forces, blindness, hearing
20 impairment, or because such person possesses a trained dog guide
21 as a consequence of blindness or hearing impairment or other
22 handicap of such person or persons; (b) to discriminate against
23 any person because of his race, color, religious creed, national
24 origin, sex, gender identity or expression, sexual orientation,
25 which shall not include persons whose sexual orientation involves
26 minor children as the sex object, age, genetic information,
27 ancestry, or marital status, veteran status or membership in the
28 armed services, blindness, or hearing impairment or other hand-
29 icap, or because such person possesses a trained dog guide as a
30 consequence of blindness or hearing impairment in the terms, con-
31 ditions or privileges of such accommodations or land or the acqui-
32 sition thereof, or in the furnishing of facilities and services in the
33 connection therewith or (c) to cause to be made any written or oral
34 inquiry or record concerning the race, color, religious creed,
35 national origin, sex, gender identity or expression, sexual orienta-
36 tion, which shall not include persons whose sexual orientation
37 involves minor children as the sex object, age, genetic informa-
38 tion, ancestry, marital status, veteran status or membership in the
39 armed services, blindness, hearing impairment or other handicap
40 or because such person possesses a trained dog guide as a conse-
41 quence of blindness or hearing impairment, of the person seeking
42 to rent or lease or buy any such accommodation or land; provided,
43 however, that this subsection shall not apply to the leasing of a
44 single apartment or flat in a two family dwelling, the other occu-
45 pancy unit of which is occupied by the owner as his residence.
46 The word “age” as used in this subsection shall not apply to per-
47 sons who are minors nor to residency in state-aided or federally-
48 aided housing developments for the elderly nor to residency in
49 housing developments assisted under the federal low income

50 housing tax credit and intended for use as housing for persons 55
51 years of age or over or 62 years of age or over, nor to residency in
52 communities consisting of either a structure or structures con-
53 structed expressly for use as housing for persons 55 years of age
54 or over or 62 years of age or over if the housing owner or manager
55 register biennially with the department of housing and community
56 development. For the purpose of this subsection, housing intended
57 for occupancy by persons fifty-five or over and sixty-two or over
58 shall comply with the provisions set forth in 42 USC 3601 et seq.

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

4 7B. For any person to make print, or publish, or cause to be
5 made, printed, or published any notice, statement or advertise-
6 ment, with respect to the sale or rental of multiple dwelling,
7 contiguously located, publicly assisted or other covered housing
8 accommodations that indicates any preference, limitation, or dis-
9 crimination based on race, color, religion, sex, gender identity or
10 expression, sexual orientation which shall not include persons
11 whose sexual orientation involves minor children as the sex
12 object, national origin, genetic information, ancestry, children,
13 marital status, public assistance reciprocity, or handicap or an
14 intention to make any such preference, limitation or discrimina-
15 tion except where otherwise legally permitted.

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

4 8. For the owner, lessee, sublessee, or managing agent of, or
5 other person having the right of ownership or possession of or the
6 right to sell, rent or lease, commercial space: (1) To refuse to sell,
7 rent, lease or otherwise deny to or withhold from any person or
8 group of persons such commercial space because of race, color,
9 religious creed, national origin, sex, gender identity or expression,
10 sexual orientation, which shall not include persons whose sexual
11 orientation involves minor children as the sex object, age, genetic
12 information, ancestry handicap or marital status of such person or
13 persons. (2) To discriminate against any person because of his

14 race, color, religious creed, national origin, sex, gender identity or
15 expression, sexual orientation, which shall not include persons
16 whose sexual orientation involves minor children as the sex
17 object, age, genetic information, ancestry, handicap or marital
18 status in the terms, conditions or privileges of the sale, rental or
19 lease of any such commercial space or in the furnishing of facili-
20 ties or services in connection therewith. (3) To cause to be made
21 any written or oral inquiry or record concerning the race, color,
22 religious creed, national origin, sex, gender identity or expression,
23 sexual orientation, which shall not include persons whose sexual
24 orientation involves minor children as the sex object, age, genetic
25 information, ancestry, handicap or marital status of a person
26 seeking to rent or lease or buy any such commercial space. The
27 word “age” as used in this subsection shall not apply to persons
28 who are minors, nor to residency in state-aided or federally-aided
29 housing developments for the elderly nor to residency in self-con-
30 tained retirement communities constructed expressly for use by
31 the elderly and which are at least twenty acres in size and have a
32 minimum age requirement for residency of at least fifty-five
33 years.

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

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

7 (a) implicit or explicit representations regarding the entry or
8 prospective entry into the neighborhood of a person or persons of
9 a particular age, race, color, religion, sex, gender identity or
10 expression, national or ethnic origin, or economic level or a hand-
11 icapped person, or a person having a child, or implicit or explicit
12 representations regarding the effects or consequences of any such
13 entry or prospective entry;

14 (b) unrequested contact or communication with any person or
15 persons, initiated by any means, for the purpose of so inducing or
16 attempting to induce the sale, purchase, or rental of any dwelling
17 or dwellings when he knew or, in the exercise of reasonable care,
18 should have known that such unrequested solicitation would

19 reasonably be associated by the persons solicited with the entry
20 into the neighborhood of a person or persons of a particular age,
21 race, color, religion, sex, gender identity or expression, national or
22 ethnic origin, or economic level or a handicapped person, or a
23 person having a child;

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

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

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

1 SECTION 23. Subsection 18 of said section 4 of said
2 chapter 151B, as so appearing, is hereby amended by striking out
3 the last sentence and inserting in place thereof the following
4 sentence:— Nothing contained in this chapter or in any rule or
5 regulation issued by the commission shall be interpreted as
6 requiring any employer, employment agency or labor organization
7 to grant preferential treatment to any individual or to any group
8 because of the race, color, religious creed, national origin, sex,
9 gender identity or expression, sexual orientation, which shall not
10 include persons whose sexual orientation involves minor children
11 as the sex object, age, genetic information or ancestry of such
12 individual or group because of imbalance which may exist
13 between the total number or percentage of persons employed by
14 any employer, referred or classified for employment by any
15 employment agency or labor organization, admitted to member-
16 ship or classified by any labor organization or admitted to or
17 employed in, any apprenticeship or other training program, and
18 the total number or percentage of persons of such race, color, reli-
19 gious creed, national origin, sex, gender identity or expression,
20 sexual orientation, which shall not include persons whose sexual
21 orientation involves minor children as the sex object, age, genetic

22 information or ancestry in the commonwealth or in any commu-
23 nity, section or other area therein, or in the available work force in
24 the commonwealth or in any of its political subdivisions.

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

5 No owner, lessee, proprietor, manager, superintendent, agent or
6 employee of any place of public accommodation, resort or amuse-
7 ment shall, directly or indirectly, by himself or another, publish,
8 issue, circulate, distribute or display, or cause to be published,
9 issued, circulated, distributed or displayed, in any way, any adver-
10 tisement, circular, folder, book, pamphlet, written or painted or
11 printed notice or sign, of any kind or description, intended to dis-
12 criminate against or actually discriminating against persons of any
13 religious sect, creed, class, race, color, denomination, sex, gender
14 identity or expression, sexual orientation, which shall not include
15 persons whose sexual orientation involves minor children as the
16 sex object, nationality, or because of deafness or blindness, or any
17 physical or mental disability, in the full enjoyment of the accom-
18 modations, advantages, facilities or privileges offered to the
19 general public by such places of public accommodation, resort or
20 amusement.

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

5 A place of public accommodation, resort or amusement within
6 the meaning hereof shall be defined as and shall be deemed to
7 include any place, whether licensed or unlicensed, which is open
8 to and accepts or solicits the patronage of the general public and,
9 without limiting the generality of this definition, whether or not it
10 be (1) an inn, tavern, hotel, shelter, roadhouse, motel, trailer camp
11 or resort for transient or permanent guests or patrons seeking
12 housing or lodging, food, drink, entertainment, health, recreation
13 or rest; (2) a carrier, conveyance or elevator for the transportation
14 of persons, whether operated on land, water or in the air, and the

15 stations, terminals and facilities appurtenant thereto; (3) a gas
16 station, garage, retail store or establishment, including those
17 dispensing personal services; (4) a restaurant, bar or eating place,
18 where food, beverages, confections or their derivatives are sold
19 for consumption on or off the premises; (5) a rest room, barber
20 shop, beauty parlor, bathhouse, seashore facilities or swimming
21 pool, except such rest room, bathhouse or seashore facility as may
22 be segregated on the basis of sex; (6) a boardwalk or other public
23 highway; (7) an auditorium, theatre, music hall, meeting place or
24 hall, including the common halls of buildings; (8) a place of
25 public amusement, recreation, sport, exercise or entertainment;
26 (9) a public library, museum or planetarium; or (10) a hospital,
27 dispensary or clinic operating for profit; provided, however, that
28 with regard to the prohibition on sex discrimination, this section
29 shall not apply to a place of exercise for the exclusive use of
30 persons of the same sex which is a bona fide fitness facility estab-
31 lished for the sole purpose of promoting and maintaining physical
32 and mental health through physical exercise and instruction, if
33 such facility does not receive funds from a government source,
34 nor to any corporation or entity authorized, created or chartered
35 by federal law for the express purpose of promoting the health,
36 social, educational vocational, and character development of a
37 single sex; provided, further, that with regard to the prohibition of
38 sex discrimination, those establishments which rent rooms on a
39 temporary or permanent basis for the exclusive use of persons of
40 the same sex shall not be considered places of public accommoda-
41 tion and shall not apply to any other part of such an establishment.
42 The exceptions to the prohibitions of sex discrimination stated
43 herein shall only apply to the extent such places of public accom-
44 modation, resort or amusement allow persons the full enjoyment
45 of the accommodations consistent with an individual's gender
46 identity or expression.

1 SECTION 26. Section 98 of chapter 272 of the General Laws,
2 as so appearing, is hereby amended by striking out the first sen-
3 tence and inserting in place thereof the following sentence:—
4 Whoever makes any distinction, discrimination or restriction on
5 account of race, color, religious creed, national origin, sex, gender
6 identity or expression, sexual orientation, which shall not include

7 persons whose sexual orientation involves minor children as the
8 sex object, deafness, blindness or any physical or mental disability
9 or ancestry relative to the admission of any person to, or his treat-
10 ment in any place of public accommodation, resort or amusement,
11 as defined in section ninety-two A, or whoever aids or incites such
12 distinction, discrimination or restriction, shall be punished by a
13 fine of not more than twenty-five hundred dollars or by imprison-
14 ment for not more than one year, or both, and shall be liable to
15 any person aggrieved thereby for such damages as are enumerated
16 in section five of chapter one hundred and fifty-one B; provided,
17 however, that such civil forfeiture shall be of an amount not less
18 than three hundred dollars; but such person so aggrieved shall not
19 recover against more than one person by reason of any one act of
20 distinction, discrimination or restriction.

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

4 The governor shall appoint an advisory board to the commis-
5 sion, consisting of not less than twenty-one persons, who shall
6 serve at his pleasure. The members of said board shall include
7 representatives of each of the local or regional advisory boards;
8 owners and brokers of residential property; major lending and
9 credit institutions; major private employers; a designee of the civil
10 service commission; post-secondary educational institutions;
11 major labor organizations; minority racial, ethnic and linguistic
12 groups; women; people of diverse gender identities or expres-
13 sions; elderly and handicapped persons; and recipients of public
14 assistance. The board shall advise the commission and the gov-
15 ernor on matters of policy affecting the commission, and shall
16 review the implementation of the commission's programs and
17 policies and from time to time report their conclusions to the com-
18 mission and the governor. The board shall coordinate the activities
19 of the local or regional advisory boards appointed pursuant to sub-
20 section 8 of section three of chapter one hundred and fifty-one B.
21 The governor shall from time to time designate one member as
22 chairman. The members of the board shall not be compensated for
23 their services, but they shall be reimbursed for travel and other

24 expenses necessary for the performance of their duties. The com-
25 mission may provide technical and clerical assistance to the advi-
26 sory board.

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

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

5 (a) There shall be a permanent commission on gay, and lesbian,
6 bisexual and transgender youth, which shall consist of 27 persons
7 as follows: 3 persons appointed by the Massachusetts chapter of
8 the National Association of Social Workers, 3 persons appointed
9 by the Massachusetts Coalition for Suicide Prevention, 2 persons
10 appointed by the Fenway Community Health Center, 4 persons
11 appointed by the Greater Boston Parents, Families and Friends of
12 Lesbians and Gays, 2 persons appointed by the Massachusetts Gay
13 and Lesbian Political Caucus, 1 person appointed by MassE-
14 quality, 1 persons appointed by the Massachusetts Teachers Asso-
15 ciation, 1 persons appointed by AFT Massachusetts, 3 persons
16 appointed by the Massachusetts Chapter of the American
17 Academy of Pediatrics, 2 persons appointed by the Gay, Lesbian
18 and Straight Education Network of Boston, 2 persons appointed
19 by the Massachusetts Public Health Association, and 3 persons
20 appointed by the Massachusetts Association of School Superinten-
21 dents. The membership of the commission shall include at least 1
22 parent of a gay, and lesbian, bisexual or transgender person;
23 1 high school student; 1 college student; 1 representative from an
24 educational institution; and 1 representative of the mental health
25 professions. Members of the commission shall be drawn from
26 diverse racial, ethnic, religious, age, sexual-orientation, gender
27 identity or expression and socio-economic backgrounds from
28 throughout the commonwealth. Members shall be considered
29 special state employees for purposes of chapter 268A of the

30 General Laws. The commission shall be an independent agency
31 of the commonwealth and shall not be subject to the control of
32 any other department or agency.

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

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

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

5 (c) The commission shall investigate the use of resources from
6 both the public and private sectors to enhance and improve the
7 ability of state agencies to provide services to gay, and lesbian,
8 bisexual and transgender youth. In furtherance of that responsi-
9 bility, the commission shall: (1) work in partnership with the
10 department of education and the department of public health to
11 create school-based and community-based programs focusing on
12 suicide prevention, violence intervention, and the promotion of
13 zero-tolerance policies regarding harassment and discrimination
14 against gay, and lesbian, bisexual and transgender youth; and
15 (2) make recommendations about policies and programs sup-
16 porting gay, and lesbian, bisexual and transgender youth on an
17 ongoing basis to the department of education, the department of
18 public health and the executive office of health and human
19 services. The commission shall annually, on or before June 2,
20 report the results of its findings and activities of the preceding
21 year and make recommendations relating to the concerns of gay,
22 and lesbian, bisexual and transgender youth to the governor and to
23 the clerks of the senate and house of representatives.