

# One Minute Memo®



## Massachusetts House Passes Transgender Public Accommodations Bill

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*Seyfarth Synopsis:* Yesterday, the Massachusetts House of Representatives overwhelmingly passed a bill prohibiting discrimination based on gender identity in places of public accommodation. Specifically, this measure protects a transgender individual's right to use the restroom and locker room that matches his or her gender identity. The Senate, which recently passed similar legislation, is expected to adopt the House bill in the coming days.

On Wednesday, June 1, 2016, the Massachusetts House of Representatives passed a bill by a vote of 116 to 36 that prohibits discrimination against transgender individuals in restaurants, movie theaters, bars, hotels, and other places of public accommodation. This legislation is aimed at protecting persons whose gender identity differs from the sex they were assigned at birth. While Massachusetts already prohibits gender identity discrimination in housing and employment, this legislation will extend the same protections to public accommodations. Specifically, this measure protects a transgender individual's right to use the restroom and locker room that matches his or her gender identity.

Opponents have argued that this protection will allow predatory men to pose as transgender women in order to gain access to women's restrooms and locker rooms. Proponents of the bill say this concern is not only unfounded, but also punishable under existing law. To address these safety worries, the bill passed by the House specifically includes a provision requiring the Massachusetts Attorney General to issue guidance on when and how legal action can be taken against people who assert gender identity for "an improper purpose." Similar legislation passed by the Senate on May 12, 2016 lacked this language.

Now that the House has approved its version of the legislation, the bill will return to the Senate where it will either be accepted as is or referred to committee to resolve the discrepancies between the respective bills. Senate President Stanley C. Rosenberg has said that he is open to the House formulation of the bill, stating that he considers the language articulating the Attorney General's responsibility to regulate abusers of the law as "harmless." Governor Charlie Baker said that he would sign the House version of the bill if it passed. If approved by the Senate and signed by Governor Baker, Massachusetts will join 18 other states and Washington, D.C. that have anti-discrimination laws to protect transgender individuals.

We will provide an update upon passage of the final bill. In the meantime, Massachusetts businesses that serve the public, as well as employers, should consider including sensitivity to transgender rights within their management and staff training programs.

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