

W.A. #18 Comments AHRC M. Goldsipe:



BYLAW AMENDMENT/EXPANDING EQUAL PROTECTION

To see if the Town will vote to amend Title II, Article 9 of the Town Bylaws to promote equality by amending the Arlington Human Rights Commission's stated purpose to include additional and more comprehensive protected classes of persons and further to authorize the Commission to take action within the scope of its powers defined therein to protect and promote equality for such additional and more comprehensive protected classes of persons; or take any action related thereto.

AHRC recommends adding "gender identity and expression" to the list of protected classes.

Current protected classes in Arlington's Bylaws (list appears in more than one place in the Bylaws):

Title II, Article 9, Section 2. Policy of the Town of Arlington

D. It shall be considered an unlawful practice under this Bylaw for any person to deny, interfere with, threaten or subject an individual to coercion or intimidation concerning equal access to and/or discrimination in employment, housing, education, recreation, services, public accommodation and public area where such denial, interference, threats, coercion, intimidation or unlawful discrimination against a person is based upon **race, color, religious views, national origin, gender, citizenship, age, ancestry, family/marital status, sexual orientation, disability, source of income, or military status.**

2011's "Act Relative to Gender Identity" in Massachusetts added "gender identity"* to some but not all nondiscrimination protections. The most important part missing is protections in places of public accommodation,* including medical offices, public transportation, restaurants, hotels, libraries, nursing homes, public parks, and more. "An Act Relative to Transgender Anti-Discrimination" would provide these protections statewide regarding gender identity and expression, but it's not clear if it will pass—or even come to a vote—this session. **Cities and towns like Arlington are passing local ordinances like the one AHRC is proposing here to fill the gap in protections.** Our time is now.

Even when the state law finally passes, it will still be important for Arlington's bylaws to reflect our town's values. That is what the current wording of Arlington's bylaw does. It makes explicit the town's commitment to diversity and provides protections to the groups most often victims of discrimination and violence. **Arlington's bylaws already declare us to be a welcoming town to most at-risk groups. This is an important way to show our continued commitment to equality and diversity.**

It is important for Arlington to join other welcoming communities in this state and make a clear statement that transgender and gender non-conforming individuals who want to live, work, visit, shop, or receive services in Arlington are *welcome* and *protected* here. All of us function best when living without fear of violence, discrimination, exclusion, and humiliation. Violence and discrimination against anyone hurts all our children, our families, our businesses, and our community as a whole.

When communities are welcoming places for everyone to live, work, and raise families, businesses succeed too. In fact, businesses like Harvard Pilgrim, Google, and Eastern Bank are on the leading edge of efforts to secure protections for LGBT people. Nearly 70% of US Fortune 500 companies have nondiscrimination policies covering gender identity, according to HRC's Corporate Equality Index.

* See definition on reverse side.

Definitions

Gender identity is gender-related identity, appearance, or behavior that is part of a person's core self.

The *transgender* community includes people who transition from one gender to another and/or defy social expectations of how they should look, act, or identify based on the sex assigned to them at birth.

Gender expression refers to the cues people use to signify gender. This can include clothing, mannerisms, makeup, behavior, speech patterns, and more.

Those who are *gender non-conforming* do not fit traditional stereotypes about how men or women should look or act.

Public accommodations are any places we go between home and school or work.

Facts

Nondiscrimination laws protecting gender identity have passed across the nation in 17 states, D.C., and over 200 cities and towns—12 so far in Massachusetts, including Boston, Cambridge, Lynn, Medford, and Salem. It's time for Arlington to join them on the right side of history.

Those opposed to the state equal access bill use scare tactics to deny rights to the transgender and gender non-conforming community, a group far more likely to be *victims* of harassment and violence. Cities and towns with equal access protections in public spaces have reported positive impact to the trans community and no negative impact on the wider community. These protections *increase safety* by setting community standards for treating everyone fairly with dignity and respect.

Project Voice's survey of the trans and gender non-conforming community in Massachusetts found:

- 65% of transgender people reported experiencing discrimination in an area of public accommodation.
- The five most prevalent public accommodations discrimination settings were: transportation (36%), retail (28%), dining (26%), public gathering location (25%), and health care (24%).
- Those who reported visual gender non-conformity were much more likely to report experiencing public accommodations discrimination in the past 12 months.
- Those who reported public accommodations discrimination in the past 12 months had an 84% increased risk of adverse physical symptoms (such as headache, upset stomach, tensing of muscles, or pounding heart) in the past 30 days and 99% increased risk of emotional symptoms (including feeling emotionally upset, sad, or frustrated) in the past 30 days.
- 20% postponed or did not try to get health care in the past year because of prior experiences of mistreatment in health care settings

Resources

I AM: Trans People Speak video project, transpeoplespeak.org

Freedom Massachusetts, "Background on Public Accommodations," freedommassachusetts.org/facts

Massachusetts Transgender Political Coalition, October 2015, "Transgender Anti-Discrimination Hearing Recap," masstpc.org/transgender-anti-discrimination-hearing-recap

Boston Globe, Nov. 2015 "For Now, Transgender Rights Bill Stalls on Beacon Hill," bostonglobe.com/metro/2015/11/30/for-now-transgender-bill-stalls-beacon-hill/FlXdEa3Ryv3tWvipHg1iPO/story.html

Project Voice, July 2014, "Discrimination and Health in Massachusetts: A Statewide Survey of Transgender and Gender Non-Conforming Adults," tinyurl.com/project-voice-report

Transgender Equal Rights Coalition Fact Sheet

The Consequences of Not Having Equal Access Protections

The Need For An Act Relative to Equal Access in Hospitals, Public Transportation, Nursing Homes, Supermarkets, Retail Establishments, and all other places open to the public.

Shelter Discrimination

Kayla*, a 20-year-old transgender woman, sought services last year at a homeless shelter outside of Boston, after leaving an unsafe family home and weeks of couch surfing with friends. Unfortunately, one of the most difficult periods in her young life was made even more difficult when shelter staff refused to let her sleep in the women's dormitory.

Instead, Kayla was made to sleep on the floor of a dusty room used to store donated clothes located around the corner from the women's dormitory, where residents had proper beds and air conditioning. For a time she shared the donation room with another transgender woman who occasionally resided at the shelter.

"I felt very disrespected," says Kayla, an aspiring poet and lyricist. She complained to shelter staff regularly about her substandard sleeping arrangement, to no avail. "They just made it seem like, 'Oh, we're in charge. You have no say here. Stop undermining us.'" As a result, Kayla sought outside legal advice, and at one point the Massachusetts Attorney General's office spoke with the shelter director about Kayla's situation. Things got worse after that; Kayla says she was no longer allowed access to the donations room until 9 p.m. even though the shelter allowed all residents to access the dorms and shelter amenities at 6 p.m.

Fortunately, not long after that, Kayla finally found independent housing in Boston and left the shelter.

**Kayla is a pseudonym, used to protect this woman's privacy.*

Healthcare Discrimination

Like many young people just out of college, Mycroft Masada Holmes was grateful to have landed a job that provided health insurance benefits. Shortly after taking a job at the Arlington Street Church in Boston some years ago, Mycroft chose a primary care doctor near the church who was affiliated with his new health insurance plan and set up an intake appointment with her.

During the appointment, Mycroft came out as transgender while discussing medical needs and history. The doctor became visibly uncomfortable. "She really was not pleased and just more and more seemed to want to end the interview," says Mycroft. The doctor said she would treat Mycroft as she would any female patient, but his needs as a transgender person would have to be addressed by mental health professionals, "because that's a separate thing," Mycroft recalls her saying.

When Mycroft, who had educated previous healthcare providers about being transgender, tried nicely to explain that his transgender identity could not be separated from his medical care, the doctor seemed to become more irritated. "It was like I was doing something that was a problem," Mycroft recalls. Ultimately, the doctor suggested that Mycroft might want to find a different physician.

"It was strange, disturbing and upsetting," Mycroft says of the experience. He decided to find a more supportive doctor at a different healthcare facility.

Dining Establishment Discrimination

A restaurant in Peabody in 2010 denied entry to members of a social group for transgender women and their friends one night; on the grounds some of their driver's licenses did not match their appearance. When they challenged management about being denied entry, they were then told they were being denied entry based on the length of their skirts. These transgender women had previously patronized this establishment five times prior to this incident. (On the last occasion they were inside the restaurant the owner asked the group why they "didn't go into town, where your dress code would be accepted?")

After they were turned away, one of the founders of the social group filed a complaint with the town's licensing board. The licensing board mandated mediation, but the mediation was unsuccessful. Following the unsuccessful mediation, the group's founder filed a complaint with the Massachusetts Commission Against Discrimination.

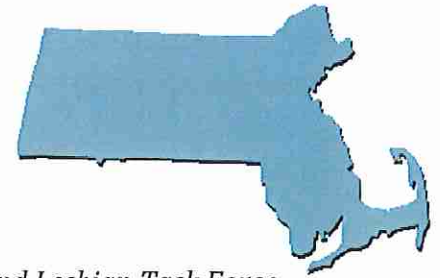
Ultimately, the local licensing board found that the restaurant had discriminated against the transgender women.

In November of 2011, the parties reached a settlement on the MCAD complaint, the details of which are confidential. However, as a result of the MCAD complaint, the restaurant's owner and its employees participated in sensitivity training around transgender people and transgender issues.

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 population¹

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 population²

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%³
- 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%⁴

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 and www.transequality.org.

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

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

³ 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.

⁴ "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 I, p.108. of the National Center for Health Statistics (Kochanek et al., 2004), see http://www.sprc.org/library/event_kit/2002datapgv1.pdf

At the meeting on May 21, 2015, the Arlington Human Rights Commission passed three resolutions regarding protections from discrimination based on gender-identity.

Resolution 1

The Arlington Human Rights Commission supports adding "gender identity and expression" to the list of protected classes regarding nondiscrimination in places of public accommodation in Massachusetts. We will publicly declare our support for the two current state bills, Senate Bill #735: An Act Relative to Transgender Anti-Discrimination and House Bill #1577: An Act Relative to Gender Identity & Non-Discrimination. This support might include newspaper opinion pieces, educational events, letters to state legislators, posts to social media, and the like.

Resolution 2

The Arlington Human Rights Commission's mandate is "to advance issues related to the fair and equal treatment of individuals, and to create a mechanism for addressing complaints arising out of these issues." We interpret this mandate to include issues regarding gender identity and expression. In addition to educational programs related to gender identity and expression, AHRC will accept and investigate official reports of discrimination based on gender identity or expression.

Resolution 3

The Arlington Human Rights Commission will work with other local equal rights groups to submit a warrant for the 2016 Town Meeting to change Arlington's Town bylaws to add "gender identity and expression" to the list of protected classes regarding nondiscrimination in Arlington.

<http://www.bostonglobe.com/opinion/editorials/2015/01/16/guaranteeing-crucial-element-transgender-rights/KTt0k2l7P26n5A2uvP3ltO/story.html>

EDITORIAL: Guaranteeing a crucial element of transgender rights

IN 2012, Massachusetts passed a landmark equal rights law — it made discrimination on the basis of gender identity illegal.

In so doing, the Massachusetts Transgender Equal Rights Act protected transgender people from being discriminated against in matters of housing, employment, credit, and public education. But at the last minute, legislators stripped a provision out of the bill regarding discrimination in public places. So a restaurant, for instance, could not refuse to hire someone — or fire them — based on gender identity, but it could refuse to serve them. And a transgender person could be denied use of a public restroom.

The absence of the “public accommodation” clause leaves a crucial hole in the law, one that state legislators in the last session tried to rectify. But an amendment proposed by Senator Sonia Chang-Diaz languished in the Senate. Now Chang-Diaz is set to resubmit the bill. The Legislature should move quickly to pass the amendment, and Governor Charlie Baker — who has expressed ambivalence about the provision — should support it.

A law that guarantees someone the right to employment but not a right to service is deeply flawed: You can work here, but you can’t eat here. But opponents have taken the bill to task as it applies to public bathrooms, derisively calling it “the bathroom bill.” It seems that lawmakers feel that the sanctity of gender-specific restrooms must be protected against those who were born as one gender and now identify as another. Yet it’s unclear what danger to the public a transgender person presents.

But the harm caused to transgender people by discrimination is real, and the public accommodation clause is not merely a social nicety. A Project Voice survey published last year conducted by the Fenway Institute and the Massachusetts Transgender Political Coalition found pervasive discrimination against transgender and “gender nonconforming” adults throughout the Commonwealth. The incidents the report cited included being prevented from using public bathrooms and denial of health care. What’s more, it’s widely known among the transgender community that the most unsafe place for a transgender person is a public bathroom, where violent attacks are most likely to happen. In one notorious case, a teenage girl was found guilty of beating a transgender woman outside a McDonald’s restroom in a Baltimore suburb. A video of the incident went viral.

Baker knows better. Transgender access to school locker rooms is already protected by the 2012 law. Despite his resistance to the public accommodation bill (going back to his 2010 gubernatorial campaign, when the openly gay state representative Richard Tisei, who supported the bill, was his running mate), he was an early supporter of gay marriage. His campaign touted the support of his openly gay brother, Alex. In a gubernatorial debate, he chastised as offensive the anti-gay comments made by an opponent. And last week’s inauguration featured a performance by the Boston Gay Men’s Chorus, the first performance by a gay chorus at a gubernatorial inauguration in New England.

The base of the Massachusetts Republican Party has not been as LGBT friendly, made clear in the party platform written last year. Here’s a chance for Baker to lead his party — and the state — with a vision the Commonwealth that is inclusive of all.