

Massachusetts Enacts Law Prohibiting Discrimination Against Transgendered Individuals

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Last week, Governor Deval Patrick signed into law “An Act Relative to Gender Identity,” also known as the Massachusetts Transgender Equal Rights Bill. This law, which will go into effect in July 2012, extends the state’s equal rights provisions to transgendered individuals by prohibiting discrimination on the basis of gender identity in employment, housing, credit and education. The law amends the existing state anti-discrimination law, Chapter 151B, to include “gender identity” as a protected category. Employers will be prohibited from refusing to hire, discharging or discriminating against any individual in compensation or in terms, conditions or privileges of employment, because of an individual’s gender identity. One of the bill’s most controversial provisions, which would have given transgendered individuals equal access to single-gender restrooms and locker rooms, was taken out of the bill two days before the legislature’s vote.

The law defines gender identity as “a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth.” While the law lists medical history and care or treatment as possible evidence that an individual is within the protected category, evidence that the gender-related identity is a sincerely held belief will also be sufficient. Thus, the protections of the law are not limited to individuals who have had gender reassignment surgery or have sought other medical treatment in connection with their gender identity.

Prior to the effective date, employers will need to update their policies and handbooks to reflect this new protected category. Note that, while the law does not take effect until next year, the Massachusetts Commission Against Discrimination has long taken the position that discrimination against transgendered individuals is unlawful.