

Appendix B: Legislation and Other Government Documents

THE COMMONWEALTH OF MASSACHUSETTS
COMMISSION ON LESBIAN, GAY, BISEXUAL, AND
TRANSGENDER YOUTH

ANNUAL POLICY
RECOMMENDATIONS
FY2014



JANUARY 9, 2013

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LETTER FROM THE EXECUTIVE COMMITTEE

The Massachusetts Commission on Lesbian, Gay, Bisexual, and Transgender (LGBT) Youth is established by state law as an independent agency of the Commonwealth. The purpose of the Commission is to make recommendations to all branches of state government and advocate for the adoption of policies, programs, and resources that will enable LGBT youth to thrive. Widespread social, economic, and health disparities are endemic to LGBT youth populations in the Commonwealth, in comparison to their non-LGBT peers. Further, significant disparities within LGBT youth populations differentially impact transgender youth and youth of color. Pervasive and longstanding inequalities motivate the Commission's work, and must be addressed in every state agency and the General Court to ensure that we live in a Massachusetts where LGBT youth can reach their full potential.

This document contains annual policy and program recommendations intended for the Great and General Court and executive agencies in the arenas of Health and Human Services and Education. The Commission will continue to strengthen our relationships to state agencies, and to work collaboratively to enact positive changes for the health, safety, and success of LGBT youth in our schools, families, and communities.

The Commission's FY2014 recommendations focus on three themes: access to services; training and education; and development of policies and practice guidance that will assist agencies in complying with *An Act Relative to Gender Identity* and all anti-discrimination laws applying to youth. We reference models provided by other states and national organizations to inspire our work in Massachusetts. In Governor Deval Patrick and his Administration, we have a true ally and partner in bridging LGBT youth disparities. The Legislature likewise supports both the spirit and substance of the Commission's work, and we continue to be encouraged by partnership with members of the LGBT Caucus and the Black and Latino Caucus in the legislature, the Senate President, and the Speaker of the House, as well as Attorney General Martha Coakley, Treasurer Steve Grossman, and Auditor Suzanne Bump.

In this year's recommendations, we have much to celebrate, with still more work to do. Our advocates in the Legislature, including their dedicated staff, have made the work of the Commission possible. Under the direction of The Executive Office of Health and Human Services (EOHHS) Undersecretary Marilyn Anderson Chase, we have advanced a fruitful partnership with Children, Youth and Families (CYF) Cluster agencies. We are particularly grateful to outgoing Commissioner John Auerbach and the Department of Public Health (DPH) for providing vital administrative support to the Commission, and we will continue to support the development of cultural competency programs for providers working under DPH and DPH funded programs. We also extend our gratitude to Department of Children and Families (DCF) Commissioner Angelo McClain for supporting the LGBT liaisons within DCF and for establishing agency liaisons with the Commission. We would like to recognize Department of Youth Services (DYS) Commissioner Ed Dolan for his commitment to cultural competency trainings for all workers, and to Department of Transitional Assistance (DTA) Commissioner Dan Curley for coordinating a working group of CYF Cluster agencies to expedite the adoption of our policy and program recommendations.

We are pleased to begin working for the first time with the Department of Early Education and Care (EEC). By partnering with Commissioner Sherri Killins and her staff, we hope to bring contracting organizations into compliance with state anti-discrimination laws. Our relationship with the Department of Elementary and Secondary Education (DESE) continues to grow, and we thank Commissioner Mitchell Chester and the DESE General Counsel's Office for acting quickly to change regulations and policy to be in compliance with *An Act Relative to Gender Identity* and other state anti-discrimination laws. We look forward to the revitalization of the Safe Schools Program, as well as professional development and technical assistance around *An Act Relative to Bullying in Schools* and *An Act Relative to Gender Identity*.

The Great and General Court, executive agencies within the Commonwealth, and the Commission must work together to secure resources, address institutionalized inequalities that differentially impact LGBT youth populations, and support a culture in Massachusetts where LGBT youth have the tools they need to succeed.

As in the past, budgetary, institutional, and other challenges can be overcome. We look forward to seeing the fruits of our collaborative efforts as they impact individual youth residing in the Commonwealth. We are eager to work together to maintain and expand the role of Massachusetts as a national model for positive LGBT youth work, providing the infrastructure so that youth in our state not only survive, but thrive.

Sincerely,

Julian Cyr, Chair
Erika J. Rickard and Alexis Yioulos, Vice Chairs
The Massachusetts Commission on LGBT Youth

INTRODUCTION

The General Court created the Massachusetts Commission on Gay and Lesbian Youth in 2006 (Act of Jul. 1, 2006, Ch. 139 §4, codified in Mass. Gen. Laws Ch. 3 §67). The Commission has since adjusted its name to more fully reflect the youth it serves, and as of 2012 is the Commission on Lesbian, Gay, Bisexual and Transgender Youth. Up to 50 members may be appointed to the Commission. Commissioners, representing twelve key Public Education, Public Health, and LGBT organizations and fourteen state regions, are inducted for two-year terms. The Commission's leadership includes a Chair, Vice Chair(s), and an Executive Committee. The Executive Committee meets monthly, and all Commissioners meet as a full body six times per year and monthly in functional teams.

The Commission is committed to the elimination of disparities in access to services and in service outcomes for LGBT youth populations in all life arenas, including physical and mental health, education, social services, housing, and employment. Information from providers who serve LGBT populations, from LGBT youth themselves, and from state and national surveillance data indicates that LGBT youth are a vulnerable population, with transgender youth and youth of color most heavily affected (Consolación, Russell, & Sue, 2004; Garofalo, DeLeon, Osmer, Doll, & Harper, 2006; Harper, Jernewall, & Zea, 2004; McCready, 2004; O'Donnell, O'Donnell, Wardlaw, & Stueve, 2004).

The recommendations for FY2014 set forth in this publication are intended to help make Massachusetts state agencies aware of and responsive to the needs of LGBT youth populations in the Commonwealth. The Commission is committed to working with state agencies to assist in the implementation of these recommendations, and intends to monitor and report on progress made toward their implementation.

Defining Terms and Target Populations

Lesbian, Gay, Bisexual and Transgender (LGBT) Youth

The acronym "LGBT" is intended to represent all sexual minority and transgender/gender non-conforming youth.

- **Sexual Minority Youth:** Sexual minority youth consist of young people who identify themselves as gay or lesbian (e.g. individuals whose primary sexual/emotional connections are to people of the same gender) or bisexual (e.g. individuals whose sexual/emotional attraction and connections are not limited to one gender or the other); as well as youth who do not ascribe to these identity labels, but engage in same-gender sexual or romantic behavior.
- **Gender Identity Minority, Transgender, and Gender-Nonconforming Youth:** Transgender is an umbrella term that includes youth who transition (or aspire to transition) from one gender to another, and/or gender non-conforming youth – defined as youth who defy social expectations of how they should look, act, or identify based on the gender associated with their birth sex. This includes a range of people, including: male-

to-female (MTF) or female-to-male (FTM) transgender/transsexual youth, as well as youth whose *gender identity* (how they identify their own gender) or *expression* (how they express their gender identity) differs from conventional expectations of masculinity or femininity (Massachusetts Transgender Political Coalition, 2007).

When discussing lesbian, gay, bisexual, or transgender (LGBT) youth as a population, it is important to recognize that young people, particularly young people of color, may not fit or define themselves according to “commonsense” or prevailing definitions of lesbian, gay, bisexual, or transgender (Silenzio, 2003, 867-871). These youth may not use the terms “lesbian,” “gay,” or “bisexual” to identify themselves or their sexuality, although they may be engaging in same-sex sexual or romantic relationships. When using the signifier LGB, the Commission intends to refer to all of these youth, not just sexual identity or behavior per se. This also includes youth who may not have a fully developed sexual identity. In some cases, LGB is intentionally used to refer to sexual minority youth exclusively; for example, when statistics are not available for transgender/gender non-conforming youth.

Questioning youth are also included in the LGBT definition. Defining and measuring LGB youth populations can be difficult, with most instruments relying on sexual identity, sexual orientation, sexual behavior, or a combination of the three (Robin, Brener, Donahue, Hack & Goodenow, 2002; Austin, Conron, Patel, & Freedner, 2007). While the Commission urges the continued use of the term “LGBT”, it recognizes that this term should not be read to suggest only youth/students *identifying* as LGBT, but *also include youth/students who would be represented by broader measures* such as orientation, same-sex sexual behavior, or nontraditional gender presentation. We believe that a broader understanding of these terms takes into account the complexity of sexual and gender identity development and allows for more culturally specific descriptions of populations than a reliance on identity alone (Rosario, Schrimshaw, & Hunter, 2008; Rosario, Schrimshaw, & Hunter, 2004; Harper et al., 2004).

Terms and Definitions Regarding Priority Populations

While there are documented health disparities and other forms of inequality associated with LGBT youth populations in general, the Commission recognizes within-group differences that necessitate targeted attention to specific sub-groups. LGB youth of color and transgender/gender non-conforming youth of all racial and ethnic backgrounds are at disproportionate risk of experiencing violence and negative health outcomes, yet face additional barriers to engaging with state agencies and accessing culturally-competent services. Thus, LGB youth of color and all transgender/gender non-conforming youth are considered priority populations by the Commission.

Youth of Color

The Commission defines youth of color broadly, to include those groups that have specific and longstanding relationships with systems of racial or ethnic-based oppression, exploitation, and/or marginalization in the United States. Included in this population are both youth of color (e.g. non-white youth) as well as white-Hispanic youth and/or youth from other minority ethnic or cultural backgrounds that position them for experiences of racist or classist oppression.

Transgender/Gender Nonconforming Youth

Refer to the previous section for the Commission's definitions of "transgender" and "gender nonconformity"

The Commission recommends the consistent use of as broad a definition of transgender as practicable. Gender norms are complexly influenced by broader cultural norms and those cultural norms affect self perception and perception by others. Additionally, transgender is a relatively new and rapidly evolving term, with no set standards for social science measurements and survey instruments as of yet. Because of these factors, we recommend the inclusion of both identity (e.g. identifying or self-labeling as transgender, transsexual, MTF, FTM, genderqueer, or gender nonconforming) as well as behavioral measures (gender presentation and/or expression) when accounting for and/or addressing the needs of this population. Such an inclusive definition is, for instance, needed to ensure that professionals interact with these youth in an appropriate manner and provide appropriate care. *An Act Relative to Gender Identity*, which went into effect in Massachusetts on July 1, 2012, 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.

Disparities

The Commonwealth of Massachusetts was among the first states to analyze statewide health and risk behavior assessments on sexual-minority youth via the biennial Youth Risk Behavior Survey (YRBS), which is primarily responsible for monitoring youth behaviors that contribute to mortality and morbidity (Centers for Disease Control and Prevention, 2011). This survey does not include any questions on gender identity, so we do not have data for transgender youth.

Suicide and suicidal ideation continue to be an alarming concern afflicting LGBT youth. When compared with other youth, four times as many sexual-minority youth have attempted suicide in the past 12 months that resulted in an injury, poisoning, or overdose that had to be treated by a doctor or nurse (8.4 percent vs. 2.0 percent), according to the Department of Elementary and Secondary Education (Goodenow, 2011). Suicidal ideation and suicide attempts among the LGB population have been consistently reported at much higher rates than heterosexual youth, and despite our awareness of this disparity, it continues to grow. In 2011, 34.1 percent of LGB youth compared to 4.5 percent of non-LGB youth reported a suicide attempt in the past year alone (Goodenow, 2011). The Commission supports programs like the national Trevor Project that provide a lifeline to youth in need. We also support the American Foundation for Suicide Prevention's national recommendations (Haas et al., 2010), and urge the speedy inclusion of a focus on LGBT youth in any statewide strategy for suicide prevention.

The 2011 Massachusetts YRBS (MYRBS) and the 2011 Massachusetts Youth Health Survey (YHS) document several health disparities experienced by sexual-minority youth when compared with other youth in the state. For example, nearly four times as many sexual-minority youth report experiencing dating violence at some time in their lives, when compared with other youth (36.1 percent and 9.5 percent, respectively) (Massachusetts Department of Public Health,

2012b). Additionally, sexual minority students are more likely to engage in risk behaviors such as illicit drug and alcohol use. Combined data from the state's 2011 YHS and YRBS surveys indicates that 83.3 percent of LGB students reported lifetime alcohol use, compared to 67.3 percent of other youth, and 63.3 percent of LGB students reported having smoked a cigarette, compared to only 34.8 percent of heterosexual students (Massachusetts Department of Public Health, 2012a).

Homelessness disproportionately affects sexual-minority youth. In Massachusetts, 33.4 percent of homeless youth identified as LGB or were unsure of their sexual orientation (Corliss, Goodenow, Nichols, & Austin, 2011). Furthermore, homeless sexual-minority youth are at greater risk than their heterosexual counterparts for negative health outcomes and risk behaviors, including mental health issues (Cochran, Stewart, Ginzler, & Cauce, 2002; Van Leeuwen et al., 2006; Gangamma, Slesnick, Toviessi, & Serovich, 2008) and engagement in risky sexual behavior (Marshal, Friedman, Stall, & Thompson, 2009; Kipke et al., 2007).

RECOMMENDATIONS

For the first time since its inception 20 years ago, the Commission held Public Hearings for youth and adults across the Commonwealth to share their experiences and help us to understand what is and is not working for LGBT youth. The hearings were held on June 20 and 21, 2012, in Boston and Holyoke. Several themes emerged from those hearings. In conjunction with empirical data and evidence-based policies already in effect in other states and/or on the national level, we have used this information to inform the development of the following recommendations that apply across multiple state agencies:

- ***Access:*** Funding and support for programs that target LGBT youth remains crucial for youth to be able to access the services and resources they need. Both LGBT youth and the adults who work with them reported that youth face barriers to accessing services, including feeling unwelcome in agency offices. This was particularly significant among youth of color and transgender youth.
- ***Training:*** From schools to foster care to health care, youth and their allies report a need for increased LGBT cultural competency among state employees and contracting agencies. All Executive Office of Health and Human Services (EOHHS) and Executive Office of Education (EOE) agencies would benefit from regular and consistent training and education around LGBT youth populations and issues within their respective service areas. We recommend collaboration with experts to develop and execute these trainings.
- ***Anti-discrimination policies and guidance:*** Access and education are improved by ensuring there is a grievance process in place or another type of redress that clients have if they are not served appropriately. We recommend developing stronger guidance, model policies, and best practices for working with LGBT youth throughout the Commonwealth, and have provided examples from the federal government and other states where available.

In addition to these general themes, the Commission notes the following specific priorities:

- ***Implementing An Act Relative to Gender Identity, in word and in spirit:*** *An Act Relative to Gender Identity* took effect on July 1, 2012. We recommend that all agencies expand their individual anti-discrimination policies to include gender identity as defined by the statute. This would ensure compliance with the law and Governor Deval Patrick's Executive Orders 526 and 527, which extend nondiscrimination protections to all state employees and businesses that contract with the state. In addition, we urge agencies to think broadly about how to ensure that transgender and gender-nonconforming youth are not subject to discrimination or biased treatment by agencies or contracting organizations.

- ***Collecting data:*** Data should be gathered in all settings on sexual orientation, gender identity, and (where relevant) sexual behavior. This information is necessary to better target programming to LGBT youth, and would provide the foundational knowledge needed to conduct assessments of the efficacy of LGBT-related policies and programming.
- ***Recognizing intersections:*** LGBT youth live in all parts of the Commonwealth. They are urban and rural, of all races, physical and mental abilities, nationalities, socio-economic backgrounds, religious backgrounds, and families. Recognizing the diverse needs of LGBT youth who experience intersecting forms of inequality and disparities is essential to ensuring that all LGBT youth thrive. We therefore recommend the adoption of these recommendations in all communities, in all parts of the Commonwealth.

1. HEALTH & HUMAN SERVICES RECOMMENDATIONS

Members of the Commission are excited to expand working relationships with EOHHS agencies through collaboration with Secretary JudyAnn Bigby, Undersecretary Chase, DTA Commissioner Curley, the incoming DPH Commissioner, DCF Commissioner McClain, and DYS Commissioner Dolan. Since the public hearings, we have begun to meet with all EOHHS agencies in the CYF Cluster, through our Commission liaisons to state agencies and a working group under the direction of Undersecretary Chase and Commissioner Curley.

Across all EOHHS agencies, we recommend implementing the following changes along the following themes:

Access: We recommend improving access to services by offering a “rights and responsibilities” or “what to expect” brochure, and by displaying recognizable symbols of support (such as LGBT-affirming posters, stickers, and informational materials). Steps such as these will contribute to an environment where LGBT young people feel safe and welcome.

Training: All EOHHS agencies would benefit from regular and consistent training and education on LGBT youth populations within their respective service areas.

Anti-discrimination policies and guidance: We recommend that all agencies expand their individual anti-discrimination policies to include gender identity as defined by state statute, and to think broadly about how to ensure that youth in contact with agencies are protected from discrimination at all levels.

DEPARTMENT OF CHILDREN AND FAMILIES (DCF)

DCF provides an intricate network of services that support the healthy development of children and youth in the Commonwealth. The Commission applauds the work of DCF's LGBT¹ liaisons for their efforts to foster a safe environment for LGBT youth seeking and receiving services from DCF. However, persistent, systemic issues have prevented LGBT youth in the Commonwealth from receiving appropriate and much-needed services from DCF. We recommend that future Diversity Plans and Strategic Plans incorporate the recommended changes to access, training, and policies as they impact LGBT youth that interact with DCF, whether in DCF care or custody, or in intact families.

DCF Recommendations:

1. Improve access to safe homes by identifying and developing LGBT-friendly foster placements, hotline homes, and residential facilities.
2. Increase access to safe homes for youth aging out of care by re-establishing independent living programs, and by identifying LGBT-friendly shelters.
3. Provide training programs for all workers and supervisors on the issues that affect LGBT youth and adults.
4. Provide practice guidance on family assessments and working with openly LGBT youth clients.
5. Provide specific practice guidance on working with transgender youth and adults.

Background

The coming out process itself can cause emotional stress to the family and the young person, which can result in the voluntary or involuntary premature departure from home. These types of situations are not unique to LGBT youth, but LGBT youth are disproportionately affected by homelessness, involvement with the foster care system, or living in unstable or unsafe alternate housing situations. Further, certain protective factors associated with resiliency among racial/ethnic minority groups may be lacking among sexual and gender minority youth, because “in contrast to other minorities in which the adolescent has the same minority status as his or her parents, the LGBT adolescent may also have to deal with parents who reject their offspring because of their child’s sexual orientation” (Levin, 2011, 18).

Nationally, there are over 500,000 youth in the foster care system and an estimated five to ten percent identify as lesbian, gay, bisexual or transgender (U.S. Department of Health and Human Services, 2009; Marksamer, 2006). From a national sample, approximately 50 percent of LGBT

¹ DCF liaisons refer to themselves as BGLTQ liaisons. We use the term LGBT for consistency.

youth reported receiving negative reactions upon coming out to their families, and 26 percent reported being physically kicked out by a member of their family (Ray, 2006). A recent study of high school students in Massachusetts reflects these national statistics (Corliss et al., 2011). According to this study, 25 percent of lesbian and gay teens and 15 percent of bisexual teens are homeless, compared to only three percent of straight teens (Corliss et al., 2011). According to another study, 42 percent of all homeless youth are LGBT (Bridges, 2007). That same study reveals that LGBT youth of color are particularly at risk, with 65 percent of homeless individuals identifying as a racial minority (Bridges, 2007).

LGBT youth not only experience “alarming rates of behavioral and social problems [but] service use among these youth is disproportionately low,” suggesting the likelihood that decreased service accessibility is a causal factor in service underutilization (Acevedo-Polakovich, Bell, Gamache, & Christian, 2011, 1). This theme is reflected in the public hearing testimony specific to DCF-related issues such as housing and homelessness – as well as inappropriate or inadequate service provision that for some results in reluctance to seek services in the future.

The lack of training, skill-development and knowledge needed, both to identify LGBT youth and to provide adequate services, persists as a systemic issue that compromises DCF service provision. Coupled with a limited number of LGBT-friendly out-of-home placements, failure to collect data about LGBT youth involved with DCF has resulted in significant gaps in services that disproportionately impact LGBT youth.

Testimony from the Hearings

“I was kicked out of my home, abused, and neglected for being bisexual. I was put in foster care shortly after my mom got arrested for abusing me. My foster care journey was not easy. . . Kids like us need more support when they’re homeless and when they have been in foster care. I would like to see more social workers who are supportive with GLBT youth.” – Lyanne

“When you’re a homeless GLBT youth, there’s not a lot of safety nets. . . A lot of people think that it’s better to go to a shelter than to stay under a bridge and be on the streets, but in actuality it’s not. They will help other clients target you, then turn their backs, turn a blind eye. It’s really ridiculous.” – Diamond

“It often felt like they were subtly saying to me that they cared but that they would care more if I didn’t sleep with men.” – Anonymous youth, testimony read by Mandy Lussier

An additional story shared by Mandy Lussier of Youth on Fire at AIDS Action Committee further demonstrated the ways in which shelters can be unsafe for LGBT youth. For instance, she shared a story about a young couple forced to leave a women’s shelter when another client “outed” them as being in a same-sex relationship, saying, “The two young women had been sleeping in the same room since their arrival, but after they were outed they had to occupy separate rooms and could not be in the bathroom together, even though all the other women used it at once. After being caught hugging, they were suspended from the shelter for two weeks. They talked about wanting to file suit against the shelter but decided not to because they had no other place to go. They were so worried about being retaliated against that they did not even file

a complaint. They accepted their two week suspensions, during which they stayed outside, and went back to that shelter.”

Gay & Lesbian Advocates & Defenders (GLAD) reports receiving calls from youth about their negative experiences in foster care on a regular basis: “Just today [June 20, 2012], a youth in DCF was told that she could not wear a t-shirt that had a rainbow on it because that means lesbian or gay. We’ve also been involved with DCF caseworkers who’ve done pinky swears with kids in their care to get them to promise that they won’t be gay, that they will try to be straight. Otherwise, they won’t get into heaven. These are not isolated incidents.”

– Vickie Henry, GLAD Senior Staff Attorney

Expanded Recommendations

Access

1. **Improve access to safe homes by identifying LGBT-friendly foster placements, hotline homes, and residential facilities.** LGBT young people, both over and under the age of 18, need safe housing. Homelessness continues to be a major problem for LGBT youth, who are disproportionately represented among homeless populations. In addition, lack of safe homes for LGBT youth has led to the placement of youth in homes with a higher level of care than necessary, as well as greater numbers of disruptions of foster placements. What these youth need first and foremost is a stable living situation, both when they are in DCF care and when they age out of care.

The Commission recommends that each area office within the DCF system identify homes that would be welcoming and affirming to adolescents and children regardless of sexual orientation and gender identity or expression, in particular:

- A minimum of two foster placements in each area office
- A minimum of ten ‘hotline home’ placements in each of the four regions, preferably in the form of a distinct ‘LGBT Hotline.’

Identification and tracking of safe homes requires that family resource workers raise the question as part of the home study process for new foster families, and as part of the re-licensing process for continuing foster families.

Foster families who identify themselves as accepting homes may not necessarily be equipped to do so. An additional approach for identifying LGBT-friendly foster families is to offer voluntary trainings on caring for LGBT youth, and to provide a modest stipend for those trainings. Those who have chosen to attend, who have received training, and who continue to self-identify as accepting homes for LGBT youth are more likely to have successful placements.

In addition, we ask that DCF ensure that its contracting agencies adhere to the same non-discrimination principles as the Department itself.

2. **Increase access to safe homes for youth aging out of care by re-establishing independent living programs, and by identifying LGBT-friendly shelters.** LGBT youth who age out of care too often find themselves without safe places to live. The Commission recommends revitalizing the independent living programs that were once funded, as a long-term goal in the overall strategic plan. In the short term, we urge DCF to collaborate with both EEC and community-based organizations that serve LGBT youth and/or serve homeless and low income LGBT youth to create safe spaces for homeless and marginally housed LGBT young people. Community-based organizations can provide insight into particular communities and populations within the Commonwealth, and we urge DCF and other organizations to consider youth of color and transgender youth as top priorities in the need for safe homes.

Training

3. **Provide training programs for all workers and supervisors on the issues that affect LGBT youth and adults.** DCF regulation 110 CMR 7.104 requires that licensed foster / adoptive homes must be able to nurture children in the home, “including supporting and respecting a child’s sexual orientation or gender identity.” DCF engaged in a Department-wide training on sexual orientation cultural competency in 2004, thanks to an outside grant. To date, there has been no re-creation of that training. LGBT liaisons have taken it upon themselves to seek out training from organizations such as Adoption & Foster Care Mentoring and the Massachusetts Transgender Political Coalition (MTPC), and to revise the foster parent training curriculum (Massachusetts Approach to Partnerships in Parenting, or MAPP). Many case workers, foster parents, and supervisors outside of the self-identified liaisons, however, have never been trained on the needs of LGBT youth in their care. We note that DCF is eligible, as a Title IV-E agency, to access resources from the federal government to provide training for caseworkers on LGBT competency.

We encourage DCF to follow [federal guidelines](#) on training and resource availability for DCF staff. We also recommend the training curriculum provided in [Moving the Margins: Training Curriculum for Child Welfare Services with LGBTQ Youth in Out-of-Home Care](#), created in 2009 by Lambda Legal and the National Association of Social Workers. We urge DCF to integrate LGBT competency training in its continuing education programs for social workers, as well as its new supervisor training and learning circles.

We note that the organization Health Imperatives has received a grant from DPH to provide LGBT cultural competency trainings to state agencies, and has already begun to work with DYS on a tailored training curriculum that has been well-received. We urge DCF to consider working with Health Imperatives as well. In addition, we recommend reducing the caseload for frontline workers who contribute to DCF as LGBT liaisons. DCF liaisons make a tremendous difference, not only in their respective area offices, but also for the Department as a whole. According to the Liaisons Roles and Responsibilities, DCF liaisons are responsible for educating their respective offices about the LGBT resources in their area, participate in area Diversity Leadership Teams, maintain physical resources for their offices, and educate new workers about LGBT issues during On the Job Trainings. We recommend that active liaisons who participate in training their co-workers receive a reduction in their

caseload. Even reducing a caseload by one would make a significant impact in the amount of time that liaisons can devote to internal trainings and education efforts. For supervisors, a reduction in caseload may not be possible – accordingly, we recommend a monthly stipend, similar to the stipend that bilingual workers receive for their additional work and expertise.

[Please see EEC recommendation #3 on partnership between DCF and EEC.]

Policies and Guidance

4. **Provide practice guidance on family assessments and working with openly LGBT youth clients.** Family abuse is a serious issue in situations that involve LGBT youth. Results from the *National Homeless Youth Provider Survey* found that family rejection was the most cited factor contributing to youth homelessness (68 percent), and more than half of the respondents (54 percent) also cited abuse in the family (Durso & Gates, 2012). The federal Administration for Children and Families supports the recommendations made by Lambda Legal in 2012, which include performing family assessments that promote an understanding of the effects of family rejection and acceptance on the well-being of LGBT youth. The California-based Family Acceptance Project also has an assessment tool that may be useful. Caitlyn Ryan of the Family Acceptance Project came to Massachusetts at the end of October 2012 in a collaborative effort between Parents, Families, and Friends of Lesbians and Gays (PFLAG) and DCF to provide training on pastoral care for LGBT youth, and we look forward to continued collaboration to seek out intervention strategies that would improve family acceptance of LGBT youth.

We also recommend building LGBT acceptance assessments into the protocols for family assessments. We encourage building relationships with community organizations to create in-home counseling teams that specialize in working on LGBT identities and family acceptance models. Toward that end, the Commission is eager to work with DCF in seeking grant funding to establish such a project.

The Commission recommends improving access to family-based services by implementing procedures such as those used by the New York City [Administration for Children's Services](#), which were implemented in 2011.

5. **Provide practice guidance on working with transgender youth and adults.** More than 75 percent of the agencies participating in the *National Homeless Youth Provider Survey* reported working with transgender youth within the past year (Durso & Gates, 2012). Full implementation of the new law *An Act Relative to Gender Identity* requires some critical thinking about changes to practices and protocols that would ensure that the Department is meeting the needs of transgender youth in its care.

I am proud of the youth in this community who are willing to be as open as they are about who they are, and I think we owe it to them to ensure that they have the safety they need.
– Jennifer Levi, GLAD

DEPARTMENT OF PUBLIC HEALTH (DPH)

We are grateful to DPH for maintenance funding for the programs it sponsors and for its commitment to stand by LGBT youth. We also thank DPH for providing vital administrative support to the Commission. We are pleased to report that DPH has added a question about gender identity to its Youth Health Survey, which will provide a much-needed data point for future work in the Commonwealth.

DPH Recommendations:

1. Support Suicide Prevention resources, and evaluate whether these services are effectively reaching transgender and gender-nonconforming youth.
2. Provide support for youth organizations that work with LGBT youth in western Massachusetts.
3. Develop and implement evidence-based strategies for addressing health disparities for sexual and gender identity minority youth, particularly sexual and gender identity minority youth of color.
4. Provide ongoing training and technical assistance to state-funded providers about sexual orientation, gender identity and serving transgender, lesbian, gay, and bisexual youth.
5. Provide pamphlets and other print resources through the Safe Spaces program.

Background

The Institute of Medicine (IOM) recently released “The Health of Lesbian, Gay, Bisexual and Transgender (LGBT) People: Building a Foundation for Better Understanding” (2011), which reported on the mental and physical health of LGBT populations, with a chapter devoted to LGBT youth. The report begins by noting, “LGBT youth are typically well adjusted and mentally healthy,” yet consistently research has been found that LGB youth are at increased risk for suicidal ideation and attempts as well as depressive symptoms in comparison to their heterosexual counterparts (2011, 4-6). Other research suggests LGBT youth are at higher risk for mental illnesses such as depression or suicidality due to factors such as antigay victimization, stigma, and family rejection (Levin 2011, 17).

Patterns for physical health suggest a similar trend—that generally LGBT youth exhibit good physical health, although disparities do exist for sexual minority (and likely transgender) populations as compared to non-LGBT counterparts (Institute of Medicine, 2011). This report identifies a number of risk factors that disproportionately affect the health of LGBT youth, such as harassment, victimization and violence; substance abuse; homelessness; and child abuse (Institute of Medicine, 2011).

The Centers for Disease Control (CDC) released a report assessing the health-risk behaviors of students in grades 9-12 based on Youth Risk Behavior Surveillance System (YRBS) data from 2001-2009, collected by the seven states and six large urban school districts including a question about sexual identity or behavior (CDC, 2011). According to this report, in seven out of the ten health risk categories (operationalized by a total of 76 variables) the percentage of all health risks for which the prevalence was higher for sexual minority students (versus heterosexual students) ranged from 49 percent to 90 percent. The seven categories for which sexual minority students had higher prevalence rates included: (1) behaviors that contribute to violence (e.g., did not go to school because of safety concerns); (2) behaviors that relate to attempted suicide (e.g., made a suicide plan); (3) tobacco use (e.g., ever smoked cigarettes); (4) alcohol use (e.g., binge drinking); (5) other drug use (e.g. current marijuana use); (6) sexual behaviors; and (7) weight management.

Expanded Recommendations

Access

- 1. Continue to support the dissemination of the Suicide Prevention resources [currently available](#), particularly those targeting transgender and gender-nonconforming youth.** The most recent MYRBS data shows that LGB youth are seven times more likely to have attempted suicide than their non-LGBT peers (Goodenow, 2011). Among transgender youth, the disproportionality is still more drastic. Approximately 41 percent of transgender people and 47 percent of transgender people of color report having attempted suicide, compared to 1.6 percent of the general population (National Center for Transgender Equality, 2010). The Suicide Prevention resources currently available are crucial to the lives and safety of LGBT youth. We encourage DPH to ensure that all programs funded to work with LGBT youth, including Safe Spaces programs and those funded by Youth At Risk grants (current and future grantees) have ready access to information, training and resources on suicide prevention as it relates to LGBT youth populations.
- 2. Provide support for youth organizations that work with LGBT youth in the western region of Massachusetts.** At the hearings, the Commission became aware of significant obstacles that organizations in western Massachusetts face when attempting to provide services to LGBT youth in their areas, such as difficulty in reaching youth who lack access to transportation. We urge DPH to provide equitable funding for organizations across the Commonwealth, recognizing the differences in population sizes and needs. We also recommend that the Department consider more frequent RFRs for Safe Spaces, so that new applications from western Massachusetts can be evaluated.
- 3. Continue to develop evidence-based strategies for addressing health disparities for sexual minority and transgender youth, particularly youth of color and transgender youth.** In areas ranging from sexual health to mental health to intimate relationships, and as outlined in greater detail above, disparities persist. We urge DPH to encourage the work that is already happening in settings such as the Symposium on Trauma Informed Prevention and

Healthy Relationships/Healthy Sexuality in LGBTQ Supportive Settings and the DPH Healthy Relationships/Healthy Sexuality Working Group, and to convey the resulting recommendations throughout the Department and to outside vendors.

Training

4. **Provide ongoing training and technical assistance to state-funded providers about sexual orientation, gender identity and serving transgender, lesbian, gay, and bisexual youth.** To ensure that culturally competent and clinically appropriate care is being administered and that issues of sexual orientation and gender identity are discussed, we recommend that all employees and contracting organizations, including physicians, nurses, and receptionists, be required to attend LGBT cultural competence training. Service providers in the arenas of teen pregnancy, substance abuse, homelessness, Behavioral Emergency Service Teams, Violence Prevention and Survivor Services, and Suicide Prevention would all benefit from such training. We also recommend that hospital staff, DPH Sexual Assault Nurse Examiners, school health center nurses, and all other health care providers under the purview of DPH become familiar with the World Professional Association of Transgender Health (WPATH) Standards of Care for Transgender, Transsexual, and Gender Nonconforming People (7th ed., July 2012), as well as the Fenway Guide to Lesbian, Gay, Bisexual, and Transgender Health, published by the American College of Physicians (Goldhammer, Mayer, Potter, & Makadon, 2007). Both of these publications outline practical guidelines and sample questions for providing confidential, compassionate, clinically appropriate, and culturally competent healthcare to LGBT patients. We also recommend that DPH look to [New York City's training program](#) for the citywide public healthcare system.

5. **Provide pamphlets and print resources through the Safe Spaces program.** While Safe Spaces does currently provide some resources through Health Imperatives, limited funding means there is a dearth of official, state-sponsored print resources and guides available for families and providers regarding LGBT youth. A small amount of financial investment in printed publications would improve recognition, awareness, and understanding of LGBT identities and needs across the Commonwealth.

DEPARTMENT OF TRANSITIONAL ASSISTANCE (DTA)

This is our first year working with DTA, and we welcome the collaboration with Commissioner Curley and his staff.

DTA Recommendations:

1. Improve accessibility of public assistance to LGBT youth.
2. Provide LGBT cultural competency for all staff, including DV specialists.

Expanded Recommendations

Access

1. **Improve accessibility of public assistance to LGBT youth.** We recommend improving access to services by offering a “rights and responsibilities” or a “what to expect” guide, and by displaying recognizable symbols of support to LGBT young people. Publicly identifying ally-status through symbols such as Safe Space stickers and rainbow flags signals to LGBT youth that they are in a safe, welcoming setting and promotes a climate of acceptance (Poynter & Tubbs, 2007). We also recommend improving customer service protocols and training staff and administration to understand unique issues related to transgender youth and identity documentation. This would ensure that *all* residents are able to access services.

I’ve worked intensively with young people... I’ve found that the fear starts to outweigh the need for them. If I could encourage capacity building and training opportunities on how to work with LGBT people within state departments, I think that would be very helpful. I’m hoping that will not only allow our young people to follow through with the resources, but it will empower them to get what they need and deserve.

– Tharyn Grant, JRI Health

Training

2. **Provide LGBT cultural competency for all staff, including Domestic Violence Specialists.** Intimate partner violence in LGBT communities is a serious public health and community issue, occurring in approximately 25 to 33 percent of relationships where one or more partner identifies as LGBT (Quinn, 2010). This rate approximates that of violence perpetrated against heterosexual, non-transgender women. A nationally representative sample of adolescents indicates that almost 25 percent of youth with same-sex dating or sexual partners have experienced some form of physical or psychological victimization within the past 18 months, with eleven percent reporting physical violence, and thirteen percent reporting psychological violence alone (Halpern et al., 2004). Other quantitative studies suggest that rates of intimate partner violence among this population are either equivalent to

(Freedner, Freed, Yang, & Austin, 2002) or greater than (Pathela & Schillinger, 2010) those reported in heterosexual adolescent relationships. Domestic Violence Specialists at the DTA must be cognizant of this population to provide comprehensive services across the Commonwealth.

DEPARTMENT OF YOUTH SERVICES (DYS)

DYS, previously under Commissioner Tewksbury and now Commissioner Dolan, has demonstrated commitment to minimizing youth detention, and is now expanding to specifically addressing the needs of LGBT youth in care. We commend Commissioner Dolan for his engagement with the model policies provided by New York State's Office of Children and Family Services (2008) and the national advocacy group The Equity Project, and encourage DYS to continue with the progress made since the Commission's October 2011 recommendations.

DYS Recommendations:

1. Continue to implement LGBT training curriculum for staff.
2. Develop and implement policies related to transgender youth, safety for LGBT youth, and same-gender romantic behaviors for all youth.
3. Encourage vendor providers to develop innovative and privacy-preserving ways of assessing sexual orientation, same-gender romantic behavior and gender identity, and provide sexual health services accordingly.

Background

Based on the risk factors outlined by the Office of Juvenile Justice Detention Prevention, LGBT youth are at a heightened risk of becoming involved with the juvenile justice system (Shader, 2003). According to the Journal of Pediatrics, lesbian, gay, and bisexual youth are 40 percent more likely than other teens to be punished by school authorities, police and the courts (Annie E. Casey Foundation, 2011). On average, LGB and questioning youth spend more time in the juvenile justice system than their non-LGB counterparts, and are more likely to be targeted by police and be detained (Majd, Marksamer, & Reyes, 2009). Nationally, LGBT youth are twice as likely to be detained for non-violent crime, and comprise 15 percent of the national detention population (Irvine, 2010). Harassment and victimization experienced by LGBT youth can increase their risk of involvement with the juvenile justice system (Whitbeck, Chen, Hoyt, Tyler, & Johnson, 2004). Given these stark disparities, it is critical that DYS develop a comprehensive policy to address the needs of LGBT youth.

LGBT youth who enter detention facilities across the U.S. face emotional, sexual and physical abuse from other youth and even facility staff (Majd et al., 2009). Approximately 80 percent of detained youth in a survey by the National Center for Lesbian Rights reported their own safety threatened (Majd et al., 2009). On a national level, youth who identify as LGBT are 9 times as likely to be sexually victimized by youth or staff in facilities as non-LGBT youth (Center for Children's Law and Policy, 2010).

Expanded Recommendations

Training

1. **Continue to implement comprehensive LGBT training curriculum for staff.** We applaud the DYS implementation of LGBT cultural competency training in collaboration with Health Imperatives, and look forward to a future where all workers receive such training on a regular basis, in addition to ongoing partnerships between DYS and other agencies that work with youth.

Policies and Guidance

2. **Develop and implement policies related to transgender youth, safety for LGBT youth, and same-gender romantic behaviors for all youth.** As we stated in 2011, we recommend creating a mechanism to address the safety and health of transgender and gender-nonconforming youth in facilities, and we propose the model policy adopted by the New York State Office of Children and Family Services (Policy and Procedure Manual, 2008). We also recommend changing the language in policy 1.05.06(a), Client Sexual Misconduct, to state that employees shall not prohibit or discourage communication or interaction between youth of the same sex that is not also prohibited or discouraged between youth of different sexes (i.e., expressions of romantic or emotional attraction).
3. **Encourage vendor providers to develop innovative and privacy-preserving ways of assessing sexual orientation, behavior and gender identity, and provide appropriate sexual health services.** In an effort to provide non-stigmatizing health services to all youth, the Commission recommends that DYS staff work with vendor providers on overcoming privacy-related obstacles to providing inclusive, quality care. In particular, DYS staff in group care programs are the direct caregivers for youth, and are responsible for bringing youth to medical and mental health appointments and authorized to consent to routine medical treatment. We recommend that during these meetings, staff be particularly mindful of the confidential nature of conversations that youth have with healthcare providers.

2. EDUCATION RECOMMENDATIONS

Our relationship with Education agencies continues to grow. Mirroring our successful collaboration with DESE last year on parental notification about bullying incidents, we are pleased to report a most recent collaboration among the Commission, DESE, GLAD, MTPC, MIAA, and PFLAG among other groups on developing guidance for schools on implementing *An Act Relative to Gender Identity*. In addition, we welcome Commissioner Chester's commitment, after the Boston hearing, to make a presentation to the Board of Education on the 2011 MYRBS data. We are also pleased to be working for the first time with EEC under Commissioner Killins.

I think that programs that we have in schools are wonderful, like the Safe Schools program. I think that supports that we have in place for parents are wonderful, but we need to do more. We need to make sure that they feel supported and they feel safe.

– Dianne Monnin

DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION (DESE)

We are encouraged by our recent collaboration with the Department surrounding practice guidance for implementation of *An Act Relative to Gender Identity*. We welcome future collaboration with DESE, for example on applying for federal funding to help promote healthy outcomes among LGBT students, such as the APA's Healthy LGBT Students Project.

DESE Recommendations:

1. Hire a full-time staff person to support the Safe Schools Program for LGBT Students.
2. Assume responsibility for the statewide network of student organizations that support LGBT youth.
3. Integrate LGBT-related topics into the Common Core curricula, curriculum frameworks, and Conditions for School Effectiveness.
4. Fully implement *An Act Relative to Bullying in Schools* by training 100 percent of teachers and staff about preventing bias-based bullying over the next 24 months.
5. Fully implement *An Act Relative to Gender Identity* by making technical assistance and guidance available to districts and schools.
6. Add a question on gender identity to the 2013 YRBS survey.
7. Conduct a public presentation of the results of the 2011 MA-YRBS to the Board of Education within the next six months.
8. Reduce discriminatory criminal justice involvement in schools.

Background

The Commission has been working in collaboration with DESE on multiple initiatives: trainings for school personnel on bias-based bullying; the formation of a statewide network of gay-straight alliances (GSAs) and similar organizations; and implementation of policy guidance to fully apply *An Act Relative to Gender Identity*. As we heard repeatedly at the hearings, from teachers, students, guidance counselors, and administrators in public schools, there is much work that needs to be done to ensure that LGBT students are safe and supported while in school. Research shows that a safe school climate is an important step in suicide prevention (Haas et al., 2010).

Testimony from the Hearings

At the Boston hearing, a parent spoke about the importance of making guidance and training available so that educators can better serve gender-nonconforming children. She explained that few of the individuals involved in her son's education were equipped to understand his desire to

dress as a girl. “What was hard for me, as a mom, was having to go to the schools and be an educator of the educators,” she said. For instance, she described introducing herself to an elementary school principal to discuss her son’s needs. “Her jaw dropped. She said, ‘I don’t know what you’re talking about. I’ve never heard of this. You’ll have to teach me.’ . . . There are some parents out there that don’t want to be a teacher and are not able to be a teacher, and I worry about those children.”

The story told by a member of the North Shore Alliance of GLBT Youth further demonstrates the need for the implementation of *An Act Relative to Gender Identity* and for greater commitment to making transgender students feel safe and supported. “Not all LGBT youth are out, but we still need to make schools feel safe for them. Which bathroom do I go to?” the student asked. “Do I go to the male’s or the female’s? I don’t feel like I can even go to the bathroom just because of that. If I go to the female’s, then my friends are asking me, ‘Why are you going to that one? Aren’t you a boy?’ If I go to the male’s, then they’re going to look at me. ‘Aren’t you a girl? You look like a girl.’ I asked the school to make some gender-neutral bathrooms and we haven’t seen any. Maybe if we make schools a little safer and give students something as little as that, we’re making some safe zones for transgender youth to go to.” The student also said that using appropriate names and pronouns within the classroom is a major issue, indicating the necessity of competency training for both staff and students.

Jonathan Nardi, a guidance counselor, suggested that greater top-down support and visibility are essential for LGBT students. “We need GLBT curriculum not only in our guidance programs and health classes – we need it in our core subject areas too. We need to be teaching about Harvey Milk and the Stonewall Riots in social studies classes. Teachers should not be afraid to have their students read novels that have GLBT characters in them. . . . Schools do not take that route on their own. They are afraid to,” he said. Nardi also noted that visibility goes beyond the textbooks. As a gay man himself, Nardi explained that he wanted to be a role model for his students but that it was difficult to be out in a school environment, despite a supportive administration. “It took a great deal out of me to tell my coworkers that I am gay,” he told us. “In fact, I got married without any of them even knowing it.”

An athlete added a student’s perspective to Nardi’s testimony, saying, “Students aren’t necessarily involved in GSAs, but they all have to go through English class, history class, and all that stuff. I think following California’s lead would be the best chance we have at successfully putting those issues in the classroom.” His own coming out story illustrated the impact of having positive role models within the school. He explained that his decision to come out was born in part from a story about an openly gay football captain. Additionally, he told us, “There are many openly gay teachers. There’s a GSA at my school. We celebrate Day of Silence. There’s a lot of discussion and acceptance of LGBT people, despite their struggles. That inspired me to come out.”

A former student from the Leominster school system reported: “The schools were not really gay-friendly. I had my mom’s support, and I started a GSA, but I know once I left the school, they didn’t do it again. . . . The middle school was all top secret about it. They were like, ‘You’re allowed to go, but you can’t tell anybody about it.’ And I think a lot of schools are like that.”

Cathy Couture, a long-time elementary school nurse, underscored the need for increased training and programs such as Safe Schools. “Essential to the nurses are the awareness, training, and tools to do the work,” she told us. “We need posters, safe zone stickers, and handouts for all the children. We need specialized sexuality training. We need to hear from the kids.” Despite the persistence of elementary school bullying, she has seen small steps – such as hanging posters of families with gay or lesbian parents, provided through the Safe Spaces program – create opportunities for discussion and understanding. One child of a lesbian couple, she said, saw one of the posters and “couldn’t believe it existed.”

Expanded Recommendations

Access

1. **Hire a full-time person in FY14 to administer and expand the Safe Schools Program for LGBT Students and provide direct and material support for the program.** No education program or campaign can succeed without DESE funds and support. Such an approach will significantly improve implementation of the Board’s Recommendations and Regulations for the state’s student anti-discrimination and anti-bullying laws as they relate to LGBT students, including provision of professional development and technical assistance to school districts concerning these mandates. The Commission urges DESE to continue to expand the scope of LGBT-related programs in elementary and middle schools.
2. **Assume responsibility for the statewide network of student organizations that support LGBT youth.** Through the revived Safe Schools Program for LGBT students, we expect that the Department will be able to assume responsibility for LGBT student leadership initiatives, such as the Student Leadership Camp, and regional workshops. We recommend a goal of doubling the number of schools with GSAs or other LGBT student organizations, particularly those with majority-minority populations. While the Commission hopes to be able to continue to support bullying prevention work through funding in the FY14 budget, we must work together and leverage all possible resources within the schools.
3. **Integrate LGBT-related topics into the Common Core curricula, curriculum frameworks, and Conditions for School Effectiveness.** As part of the Common Core, integrate LGBT-related topics, including the contributions to history and culture made by LGBT people of all races and ethnicities, in school curricula, textbooks, and library materials. These recommendations were made in 1993 by Governor Weld’s Commission on Gay and Lesbian Youth but were never adopted. Research shows that LGBT inclusion in curricula correlates with all students—regardless of sexual orientation—feeling safer in school (Burdge, Sinclair, Laub, & Russell, 2012; Russell et al., 2006).

Training

4. **Fully implement *An Act Relative to Bullying in Schools* with explicit attention to bias-based bullying.** Per DESE guidance following the enactment of General Laws chapter 71, Section 370 (*An Act Relative to Bullying in Schools*), bullying prevention trainings and

programs for educators, staff, and students must be evidence-based and include specific efforts to reduce bias-based bullying aimed at those populations referenced in the law as being disproportionately targeted (e.g. students with disabilities, homeless students, LGBT students). All teachers, school staff, and social service providers should be trained in identifying, preventing, intervening in, and stopping anti-LGBT bullying. Such training should include how to provide LGBT students and their families with clinically and culturally competent support. Where possible such competency should be measured and demonstrated as a licensing requirement. We recommend a plan for achieving 100 percent training over the next 24 months. Lastly, we commend the Department's January 2011 guidance regarding parental notification in cases of bullying based on actual or perceived sexual orientation or gender identity and ask that the Commissioner urge principals to send the name of their designated liaison and GSA adviser, if they have one, to the Safe Schools director and/or the Commission.

Policies and Guidance

5. **Fully implement *An Act Relative to Gender Identity*.** DESE is currently working on making available to districts and schools guidance, training, resources, and technical assistance to ensure equal educational opportunity for transgender and gender-nonconforming students and to support them and their families with clinical and cultural competence. We applaud the Department's efforts to work with the Massachusetts Transgender Political Coalition (MTPC), Gay & Lesbian Advocates & Defenders (GLAD), Parents, Families, and Friends of Lesbians and Gays (PFLAG), and the Massachusetts Interscholastic Athletic Association (MIAA) to create this guidance, in particular the tireless efforts of John Bynoe, Rachelle Engler Bennett, and Dianne Curran – and we urge its speedy finalization and dissemination across the Commonwealth, directly from the Commissioner's office. Further, we ask that DESE appropriate funds for the remainder of FY13 for training and technical assistance around these new regulations and guidance, including regional conferences for administrators, guidance staff, and student leaders.
6. **Add a question on gender identity to the 2013 MYRBS survey.** We recommend that DESE follow up on its recent surveys of school principals on transgender students, via the School Health Profiles Questionnaires and their follow-up survey, by adding one or more gender identity questions to the 2013 MYRBS. In particular, we recommend that DESE adopt the language that has been tested and is currently being implemented in the YHS survey conducted by DPH. Consistent language across the two surveys will better enable researchers and policy-makers to compare the results of the data.
7. **Conduct a public presentation of the results of the 2011 MYRBS to the Board of Education within the next six months.** To recommend effective policies for Massachusetts students to succeed, the board must be familiar with barriers to learning made explicit in the Youth Risk Behavior Survey. Board members report they have never been given this information. Twelve years of state YRBS data show significant disparities in health risk for sexual minority students as compared with their heterosexual peers. Disproportionate levels of depression, suicidality, violence, truancy, substance use, and risky sexual activity are alarming and must be specifically targeted for reduction. Sexual minority students of color

are at even greater risk in many measures than white sexual minority students, and need targeted attention.

8. **Reduce discriminatory criminal justice involvement in schools.** The YRBS and other data indicate that LGBT youth are disproportionately at risk for truancy, violence, substance use and other risks (e.g., unaccompanied homelessness) that could increase their chances of becoming involved with the juvenile justice system. Research on the school-to-prison pipeline and crossover youth in the child welfare and juvenile justice systems shows that, once singled out for negative attention in school and the home, youth find themselves locked into the system (Sullivan, 1996). What is surprising is the disparate treatment of LGBT youth, particularly LGBT youth of color, when it comes to discipline in schools (Himmelstein & Bruckner, 2010). A national longitudinal study of youth in schools demonstrated that non-heterosexual youth suffer disproportionate school sanctions and punishments “that are not explained by greater engagement in illegal or transgressive behaviors” (Himmelstein & Bruckner, 2010, 49). According to the study, “teachers often overlook harassment of nonheterosexual students by their peers, and youth who report such abuse are frequently ignored or blamed for their victimization.” We urge DESE to disrupt the school-to-prison pipeline for LGBT youth by implementing the recommendations that the ACLU of Massachusetts and Citizens for Juvenile Justice offer in their recent publication, titled [*Arrested Futures*](#) (Dahlberg, 2012).

DEPARTMENT OF EARLY EDUCATION AND CARE (EEC)

EEC has been active since July 1, 2005, and has important priorities working with teen parents and licensing organizations that work with the government. We look forward to working with EEC to address issues relating to LGBT youth.

EEC Recommendations:

1. Increase the number of safe spaces available for LGBT youth.
2. Provide LGBT cultural competency training for program providers.
3. Partner with DCF on ongoing joint training programs.
4. Enforce LGBT cultural competency as a regulatory requirement for adoption and foster care providers.

Background

Given the disproportionate rates of family rejection and homelessness among LGBT youth, temporary shelters, foster families, and other state-licensed care facilities play a significant role in the lives of LGBT youth. Unfortunately, many LGBT young people report negative experiences in such spaces. As Cathy Kristofferson of Join the Impact MA testified at our public hearings, “Countless youth tell us how it is safer on the streets than any available shelter.” According to a guide by the American Bar Association, nearly one hundred percent of LGBT youth in group homes had experienced verbal harassment (Laver & Khoury, 2008). Seventy percent reported being subject to violence, and 78 percent had either run away or been removed from a foster placement for reasons relating to their sexuality. In other instances, youth find themselves forced back into the closet by foster parents or professional staff.

Without access to supportive care and caregivers, LGBT youth have heightened risks of negative health outcomes and face a more difficult transition to adult life (Child Welfare League of America, 2012). For example, as Amy Epstein of Holyoke Equal Rights Action (HERA) stated at the public hearing in Holyoke, “Most of the foster care is a million times worse than home. So, you really have to think about what’s the safest option. . . Even if their home isn’t safe, it doesn’t really matter – there’s no safe alternative. I have kids that sleep in the park on a regular basis.”

Expanded Recommendations

Access

1. **Increase number of safe homes available for LGBT youth.** We are heartened to learn that in addition to Waltham House, there are dedicated beds for LGBT youth in pre-independent living programs in Lowell (The GRIP Project of JRI), the Boston Metro-West area (Wayside Youth & Family), and an additional space in Waltham (Rediscovery House). We urge EEC

and DCF to work together to ensure that DCF workers are aware of these resources, and can make proper referrals. There continues to be an urgent need for – and awareness of the existence of – safe spaces for LGBT youth throughout the Commonwealth, particularly in western Massachusetts.

Training

- 2. Provide LGBT cultural competency training for program providers.** LGBT youth who live with their families may still struggle with negative home environments. Providers of after-school or “out of school time” (OST) programs are well positioned to reach out to LGBT youth who are searching for alternatives to spending time at home, as well as to reach out to families. As John Gintell, Co-Chair of the Cambridge GLBT Commission, stated, OST programs “are havens for kids and for GLBT kids whose own homes are a mess, so they don’t want to go home. It’s very important that these institutions have good policies and practices so that there is training for staff.” Staff training is important not only for creating safe havens, but for creating a bridge in communications with parents and families, to ensure that young people are safe at home as well. We understand that EEC is currently investigating online training modules for this purpose, and we are eager to work with the Department to ensure their success. Logical locations within the online training portal include the “Understanding Growth and Development of Children” or “Guiding and Interacting with Children and Youth” [training modules](#).
- 3. Partner with DCF on ongoing joint training programs.** There is significant overlap in the populations that EEC and DCF serve in the child welfare arena. The Commission recommends that the two agencies partner with one another to ensure cross-the-board training to social workers, foster families, and contracting organizations. We note that programs like the Family Center’s “Parenting Journey” program have provided trainings for LGBTQ parents in the past (in New York), and encourage both agencies to share their expertise, and to think creatively about collaborating with pre-existing programs to provide training opportunities for providers and the parents who work with them.

Policies and Guidance

- 4. Add LGBT cultural competency as a regulatory requirement for adoption / foster care providers.** All contracting organizations, whether faith-based or not, that receive government funds to provide social services or that care for children in state custody must adhere to professional and legal standards of care: providing for nondiscriminatory, competent and nonjudgmental services to LGBTQ youth and foster and adoptive parents. We recommend that the department modify regulation 102 CMR 5 to reflect the language in 102 CMR 1.03, regarding protected categories. In addition, we recommend that EEC follow [federal guidelines](#) on working with LGBT youth, and that EEC adopt DCF regulation 110 CMR 7.104, which requires that licensed foster / adoptive homes must be able to nurture children in the home, “including supporting and respecting a child’s sexual orientation or gender identity.” We encourage EEC to think creatively about collaborating with pre-existing programs to provide training opportunities for providers and the parents who work with them.

DEPARTMENT OF HIGHER EDUCATION (DHE)

This is the first time that the Commission has made recommendations to DHE. We welcome the opportunity to collaborate with the Department to promote welcoming campus climates and improve educational outcomes for LGBT students.

DHE Recommendations:

1. Ensure support for LGBT-inclusive student groups.
2. Fully enforce anti-discrimination policies that are inclusive of sexual orientation and gender identity, as well as other protected categories.
3. Collect information around educational outcomes for LGBT students to improve policies, programs, and services.

Background

The Massachusetts System of Public Higher Education provides critical educational opportunities to nearly 300,000 students (Massachusetts Department of Higher Education). Its mission statement articulates its goal to provide accessible and relevant programs that meet the changing individual and societal needs for education and employment. National research, however, suggests that LGBT students face barriers to accessing and thriving in higher education programs, due to harassment and discrimination.

Despite the existence of inclusive anti-discrimination policies, many LGBT students and staff members continue to face harassment or feel pressured to hide their sexual orientation or gender identity. A report by Campus Pride indicates that LGBT individuals are significantly more likely to experience harassment compared to their non-LGBT peers (Rankin, Weber, Blumenfeld, & Frazer, 2010). Harassment based on sexual orientation or gender identity may intersect with racial bias, resulting in even higher levels of harassment for LGBT people of color (Rankin, 2003).

Concerns over campus climate can interfere with the education provided to LGBT students. LGBT students are more likely to consider withdrawing from their institution and to fear for their physical safety (Rankin et al., 2010). Additionally, LGBT students often feel that their college or university does not provide adequate resources on LGBT issues or respond appropriately to issues of campus harassment (Rankin et al., 2010).

At our hearings, student Laura Valliere shared with us a research project conducted on campus climate for sexual minority students at Springfield College. While her findings were useful in providing a snapshot of the experiences of gay, lesbian, and bisexual students at Springfield, they also illuminated issues that are relevant for college students across the state. “The college needs to develop and offer programs that educate the campus as a whole about gay, lesbian, and bisexual issues,” she concluded.

Expanded Recommendations

Access

1. **Ensure support for LGBT-inclusive student groups.** As one student reported at the Holyoke hearing, students face similar challenges in higher education as they do at the middle school and high school levels when it comes to support for student organizations. We recommend that DHE build support for student groups, such as Gay-Straight Alliances or LGBT Alliances, on college campuses.

Since negative talk about gay, lesbian, and bisexual people was described as a significant problem both in 2005 and the current study, it is clear that Springfield College needs to embark on some educational training in this regard. The college also needs to facilitate the creation and/or maintenance of gay, lesbian, and bisexual clubs and events. These clubs should: create a support group, provide social opportunities, educate the campus, and take political action...Every student at Springfield College deserves the right to develop their spirit, mind, and body without being hindered by lack of acceptance and negative treatment.

– Laura Valliere

Policies and Guidance

2. **Fully enforce anti-discrimination policies that are inclusive of sexual orientation and gender identity, as well as other protected categories.** The Commission urges DHE to ensure that gender identity is incorporated into existing anti-discrimination policies and diversity plans and that policies are consistent with *An Act Relative to Gender Identity*. Additionally, we encourage DHE to make available to colleges and universities guidance, training, resources, and technical assistance to promote equal educational opportunities for LGBT students. Diversity plans and policies to reexamine include those relating to housing, bias incident reporting protocols, health services and health insurance plans, and changing identity documents, among others.
3. **Collect information around educational outcomes for LGBT students to improve policies, programs, and services.** We recommend that DHE include LGBT students when researching and addressing disparities in student success rates by demographic – in particular, in the [Vision Project](#), the Administration’s Strategic Plan for public higher education in Massachusetts.

3. RECOMMENDATIONS TO THE GREAT AND GENERAL COURT

The Commission is thankful for the continued support of the legislature, particularly the members of the LGBT Caucus and the Black and Latino Caucus, the Senate President, and the Speaker of the House. From supporting our enactment in 2006 through testifying at our Boston hearing in 2012, we are heartened by the longstanding support from the legislature.

Legislative Recommendations:

1. Add public accommodations to *An Act Relative to Gender Identity*.
2. Provide funding and resources to schools to adequately implement *An Act Relative to Bullying in Schools* and *An Act Relative to Gender Identity*.
3. Expand *An Act Relative to Bullying in Schools* to include enumerated categories and data collection.
4. Mandate age-appropriate, medically-accurate, and comprehensive health education in schools.
5. Strongly consider the recommendations of the Special Commission on Unaccompanied Homeless Youth.

Expanded Recommendations

1. **Add public accommodations to *An Act Relative to Gender Identity*.** The new law added gender identity as a protected category under chapters 71, 76, and 151B of the Massachusetts General Laws provides protections when seeking employment, housing, and credit, or accessing publicly funded primary and secondary education. A difficult decision that advocates and lawmakers had to make in the fall of 2011 was around public accommodations. Opponents of the Transgender Equal Rights Act dubbed it the “Bathroom Bill,” raising the specter of men wearing dresses and assaulting women in public bathrooms, despite the fact that 14 states and the District of Columbia passed inclusive public accommodation laws without incident. Fear surrounding the optics of this issue made it difficult for the law to garner support. Bill proponents ultimately decided to eliminate public accommodations from the bill, and it passed. Areas of public accommodation include any places where public life is conducted including restaurants, hotels, coffee shops, public transportation, hospitals and museums. Additionally, no other category of people protected by the state’s non-discrimination protections is denied protections in areas of public accommodation. The Commission recommends that the Great and General Court provide clarity and consistency to the law by adding public accommodations to the areas protected under *An Act Relative to Gender Identity*.
2. **Provide funding resources to the schools to adequately implement *An Act Relative to Bullying in Schools* and *An Act Relative to Gender Identity*.** As the American Foundation for Suicide Prevention’s national recommendations make clear, bullying prevention and a safe school climate are crucial to suicide prevention efforts in schools (Haas et al., 2010).

The Commission recommends that the legislature restore “shall spend” language to line item 7010-0005 for the Department of Elementary and Secondary Education. For the past two years, the Commission has received a \$100,000 line item in the state budget to promote anti-bullying work in schools. While this funding has been much appreciated and well-spent, it is insufficient to fully implement *An Act Relative to Bullying in Schools*, let alone an additional law requiring policy guidance and technical assistance.

3. **Expand *An Act Relative to Bullying in Schools* to include enumerated categories and data collection.** The Commission supports the recommendations of the Attorney General’s Bullying Prevention Commission on the impact of *An Act Relative to Bullying in Schools*, and supports the inclusion of enumerated categories and collecting data on bullying reports and investigations across the Commonwealth, and extending the life of the Bullying Prevention Commission.
4. **Mandate age-appropriate, medically-accurate, and comprehensive health education in schools.** The Commission supports legislation that would require age-appropriate and medically-accurate comprehensive sexuality education and sexual health consumer education in health class at all levels. As Boston City Councilor Ayanna Pressley stated at the Boston public hearing, “Parents want it, kids need it, and science says it works.”

It does seem that LGBT issues are swept under the rug a lot of times when talking to students in the general population [about sexual health]. Although going to a GSA is an amazing community, if you don’t go, there’s no way you’re going to learn. . . We have sexual education classes. They do not, however, teach any other type of sex besides that it’s a thing for reproduction and how to stop it, what birth control is. They’re very unwilling to step into unconventional ways of teaching. We had asked the GSA, ‘When you hear the word sex, what comes to mind? How do you define it?’ After bringing that to the health teacher, the health teacher was very reluctant and still felt that teaching sexual education in school and teaching about safe sex would be equivalent to teaching children how to use drugs.

– Jake

5. **Strongly consider the recommendations of the Special Commission on Unaccompanied Homeless Youth.** Estimates suggest that up to 40 percent of unaccompanied homeless youth identify as LGBT, and in many cases family rejection and/or abusive conversion “therapies” have preceded or contributed to their homelessness (Durso & Gates, 2012). The legislature recently approved the formation of a Special Commission to address the needs of unaccompanied homeless youth across the Commonwealth. The Commission fully supports the efforts of this new entity, and urges the Special Commission to consider the needs of LGBT populations in its ongoing work. One particular area of concern is the issue of youth emancipation: Massachusetts has no statute or clear procedure for emancipation, making it more difficult for minors to access housing and services independently – a significant issue for LGBT youth who face rejection on the basis of sexual orientation or gender identity. We ask that the legislature speedily address the recommendations that come out of this Special Commission, which are expected to be made by March 31, 2013.

APPENDIX

Cultural Competency Resources

- Massachusetts Transgender Political Coalition’s [trainings and workshops](#), sessions designed to promote understanding of transgender communities and relevant issues
- The Network / La Red’s [Open Minds, Open Doors](#) project, a guide to transforming domestic violence programs to include LGBTQ survivors
- Larkin Street Stories, a new [three-part video series](#) that offers tips on best practices for providers serving homeless LGBT youth and their families
- www.FindYouthInfo.gov, a cross-cutting federal website on youth issues

Foster Care Resources

- Federal [ACF Information Memorandum](#) with training and resources for LGBTQ youth in foster care; [ACF endorses](#) new practice guidelines on LGBTQ youth in foster care, from [Lambda Legal](#)
- CWLA’s “[A Place of Respect](#)”, a guide for group care facilities serving transgender and gender-nonconforming youth
- HRC’s [All Children, All Families](#) initiative, which seeks to enhance LGBT cultural competence among child welfare professionals and to educate LGBT individuals about becoming foster or adoptive parents
- [Strategies for Recruiting Lesbian, Gay, Bisexual, and Transgender Foster, Adoptive, and Kinship Families](#) on adoptuskids.org
- [Moving the Margins: Training Curriculum for Child Welfare Services with LGBTQ Youth in Out-of-Home Care](#), a train-the-trainer manual for social workers by the National Association of Social Workers and the Lambda Legal Defense and Education Fund
- Family Acceptance Project [assessment tools](#), designed to assess family rejection and health risks for LGBT Youth
- New York City Administration for Children’s Services [policy](#) for LGBT youth and families within the child welfare system, which includes procedures for family prevention services
- National Law Center on Homelessness and Poverty and National Network for Youth’s [Alone without a Home](#), which contains a state-by-state description of youth emancipation laws, along with recommendations on how to construct an emancipation process that protects the rights and best interests of minors.

Health Resources

- Institute of Medicine’s 2011 [report](#) entitled *The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding*. [Note: we look forward to a response to those recommendations soon from the [National Institute of Health](#).]
- The World Professional Association for Transgender Health’s 2012 [Standards of Care for Transgender, Transsexual, and Gender Nonconforming People](#)

- Health care: [Fenway Institute's Guide to Lesbian, Gay, Bisexual, and Transgender Health](#), which provides medical professionals with guidance, practical guidelines, and clinical issues relevant to the LGBT community
- The [Joint Commission Field Guide](#), which includes in the appendix a substantial list of further resources for improving health and health care outcomes for LGBT youth
- New York City Health and Hospitals Corporation (HHC) now has a [mandatory training program](#) for all public healthcare programs, to reduce health disparities in LGBT populations
- Fenway Health provides free [Learning Modules on LGBT Health](#) regarding healthcare for LGBT populations

Juvenile Justice Resources

- [Arrested Futures: The Criminalization of School Discipline in Massachusetts' Three Largest School Districts](#), from American Civil Liberties Union & Citizens for Juvenile Justice, 2012. This report includes recommendations for reducing youth interaction with the juvenile justice system, including addressing the disproportionate use of arrest against youth of color and students with disabilities.
- New York State Office of Children and Family Services [policy](#), which commits to provide LGBT youth in residential and after-care programs with a safe and discrimination-free environment
- Equity Project's [Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts](#), which includes recommendations for facilities, policy-makers, and others, at chapter 10.

Education Resources

- Quabbin Mediation's [Training Active Bystanders program](#), a peer-education model designed to teach students and educators safe intervention techniques and to build community ties
- [Stopbullying.gov](#), a national website with new resources on bullying and LGBT youth
- [California law](#) requiring the inclusion LGBT individuals in the history curriculum
- [Williams Institute](#) legislative and policy recommendations on school climate, curriculum and pedagogy, and school sports
- [LGBT Issues in the Curriculum Promotes School Safety](#) (California Safe Schools Coalition Research Brief No. 4), which contains information on the inclusion of LGBT issues in the curriculum and on school climate
- [Lessons That Matter: LGBTQ Inclusivity and School Safety](#) (Gay-Straight Alliance Network and California Safe Schools Coalition Research Brief No. 14), which considers the impact of including LGBT issues in the curriculum and has recommendations for students, staff, administrators, and community members
- [Ready, Set, Respect](#), for elementary educators on teaching respect and diversity
- [GLSEN school climate survey](#) (2011), a report that details the indicators and impact of a hostile school climate and of positive interventions
- GLAD [Got Rights](#), a collaborative project between GLAD and BAGLY that features a video and workshop on LGBT student rights
- Cianciotto, J. & Cahill, S. (2011). *LGBT youth in America's schools*. University of Michigan Press. Social science research and best practices for working with youth in schools.

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Statutes and Regulations

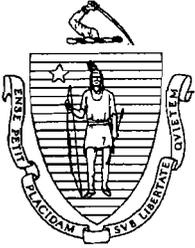
An Act Relative to Bullying in Schools. 2010 Mass. Acts. ch. 92.

An Act Relative to Gender Identity. 2011 Mass. Acts. ch. 199.

102 Code Mass. Regs. 1.03.

102 Code Mass. Regs. 5.00 et seq.

110 Code Mass. Regs. 7.104.



THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

By His Excellency

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 478

2007 JAN 30 AM 10:25
SECRETARY OF STATE

**ORDER REGARDING NON-DISCRIMINATION, DIVERSITY,
EQUAL OPPORTUNITY, AND AFFIRMATIVE ACTION**

(Revoking Executive Order 452)

WHEREAS, the Constitution of the Commonwealth of Massachusetts is based on a belief in freedom and equality for all individuals and in the duty of Government to safeguard and foster these rights;

WHEREAS, the Executive Branch of the Commonwealth of Massachusetts recognizes the importance of non-discrimination, diversity, and equal opportunity in all aspects of state employment, programs, and activities;

WHEREAS, creating a culture of inclusion that values and promotes diversity and equal opportunity for all individuals is the central objective of this Executive Order and the goal of my administration;

WHEREAS, while acknowledging the many efforts and accomplishments of the past, the Commonwealth can and must do more to ensure that non-discrimination, diversity and equal opportunity are safeguarded, promoted, and reflected in state workplaces, decisions, programs, activities, services, and contracts;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § I, Art. I, do hereby revoke Executive Order 452 and order as follows:

Section 1. This Executive Order shall apply to all state agencies in the Executive Branch. As used in this Order, "state agencies" shall include all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established.



Section 2. Non-discrimination, diversity, and equal opportunity shall be the policy of the Executive Branch of the Commonwealth of Massachusetts in all aspects of state employment, programs, services, activities, and decisions. Each executive officer and agency head serving under the Governor, and all state employees, shall take immediate, affirmative steps to ensure compliance with this policy and with applicable federal and state laws in connection with both the internal operations of state government as well as their external relations with the public, including those persons and organizations doing business with the Commonwealth. Each agency, in discharging its duties, shall consider the likely effects that its decisions, programs, services, and activities will have on achieving non-discrimination, diversity, and equal opportunity.

Section 3. All state agencies shall develop and implement affirmative action and diversity plans to identify and eliminate discriminatory barriers in the workplace; remedy the effects of past discriminatory practices; identify, recruit, hire, develop, promote, and retain employees who are members of under-represented groups; and ensure diversity and equal opportunity in all facets, terms, and conditions of state employment. Such plans shall set forth specific goals and timetables for achievement, shall comply with all applicable state and federal laws, and shall be updated, at a minimum, every two years.

Section 4. All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. Equal opportunity and diversity shall be protected and affirmatively promoted in all state, state-assisted, and state-regulated programs, activities, and services. Non-compliance shall subject violators to such disciplinary or remedial actions as permitted by law. This provision applies, but is not limited to, the use and operation of facilities owned, leased, funded or subject to control by the Commonwealth; the sale, lease, rental, financing, construction, or development of housing; state-licensed or chartered health care facilities, educational institutions, and businesses; education, counseling, and training programs; and public schools.

Section 5. All Executive Branch contracts entered into after the effective date of this Order shall contain provisions prohibiting contractors and subcontractors from engaging in discriminatory employment practices; certifying that they are in compliance with all applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and committing to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. Such provisions shall be drafted in consultation with the Office of the Comptroller and the Operational Services Division, which shall develop and implement uniform language to be incorporated into all Executive Branch contracts. The provisions shall be enforced through the contracting agency, the Operational Services Division, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

Section 6. All state agencies shall exclude from any forms requesting information any item or inquiry expressing or soliciting specifications as to race, color, creed, religion, national origin, ethnicity, gender, age, sexual orientation, or disability, unless the item or inquiry is expressly required by statute or is deemed by the Massachusetts Commission Against Discrimination, the Massachusetts Office on Disability, the Human Resources Division, or the Office of Diversity and Equal Opportunity to be a bona fide qualification or otherwise required in good faith for a proper purpose.

Section 7. The Office of Diversity and Equal Opportunity (“ODEO”), as presently established within the Human Resources Division of the Administration and Finance Secretariat, shall be responsible for ensuring compliance with this Executive Order and with all applicable state and federal laws. ODEO shall have a Director (the “Director”), who shall be selected by and serve at the pleasure of the Governor. The Director shall report to the Commonwealth’s Chief Human Resources Officer and submit periodic written reports to the Governor. The Director shall have the authority to:

- Establish guidelines for agency affirmative action and diversity plans (“plans”);
- Review all such plans and either approve, return for amendment, or reject them;
- Establish periodic reporting requirements for agencies concerning the implementation of their plans and all actions taken to ensure compliance with this Executive Order and applicable state and federal laws;
- Provide assistance to agencies in achieving compliance with their plans and with applicable federal and state laws;
- Monitor and assess the status of agency compliance and investigate instances of non-compliance; and
- Where appropriate, determine and impose remedial courses of action, including the potential imposition of a freeze on all personnel requisitions and appointment forms submitted by any non-compliant agency to the Chief Human Resources Officer.

Section 8. Each Secretariat shall appoint a Diversity Director. Each agency shall appoint a Diversity Officer. Diversity Directors and Officers shall have a direct reporting relationship to their Secretary or Agency head; shall also report to the Director of ODEO; and shall coordinate their component’s compliance with the requirements of this Order and applicable federal and state laws. Through the Diversity Directors and Officers, and in compliance with the reporting guidelines and requirements established by ODEO, all state agencies shall submit periodic reports to the Director of ODEO concerning the status and implementation of their affirmative action and diversity plans.

Section 9. The Massachusetts Office on Disability (“MOD”), through its Director, shall be responsible for advising, overseeing and coordinating compliance with federal and state laws protecting the rights of persons with disabilities, including but not limited to the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§12131-12134; Section 504 (“504”) of the Rehabilitation Act of 1973, 29 U.S.C. § 794; Article CXIV of the Massachusetts Constitution; and Chapter 6, §§ 185-87; Chapter 93, § 103; Chapter 151B; and Chapter 272, §§ 92, 98, and 98A of the Massachusetts General Laws. MOD shall

serve as the Executive Branch's designated ADA and Rehabilitation Act Coordinator, and shall provide information, training, and technical assistance and promulgate guidelines reflecting best practices, policies and procedures concerning persons with disabilities. Each agency shall appoint an ADA/504 Coordinator who shall report directly to the agency head and work with MOD concerning issues involving persons with disabilities. Notification of such appointment shall be made to MOD's Director.

Section 10. Pursuant to guidelines established by ODEO and MOD, all agency heads, managers, supervisors, and employees shall attend mandatory diversity training within one year of the effective date of this Order. For future hires, such training shall be part of the standardized orientation provided to new employees.

Section 11. ODEO and MOD shall promulgate guidelines establishing a complaint resolution process for individuals who allege non-compliance by state agencies with applicable federal and state laws prohibiting discrimination. In instances where this process does not resolve the complaint, the Director of ODEO may refer to the Massachusetts Commission Against Discrimination ("MCAD") or to MOD any information concerning conduct that the Director believes may constitute a violation of the law. The MCAD shall initiate investigations and, where necessary, file complaints against those agencies and persons whom it has reason to believe are in violation of the laws of the Commonwealth or the United States.

Section 12. In performing their responsibilities under this Order, ODEO, MOD, and the MCAD shall have the full cooperation of all state agencies, including compliance with all requests for information.

Section 13. The Governor's Non-discrimination, Diversity and Equal Opportunity Advisory Council ("Advisory Council") is hereby established to advise the Governor concerning policies, practices, and specific actions that the Commonwealth should implement to ensure that the objectives of this Executive Order are accomplished.

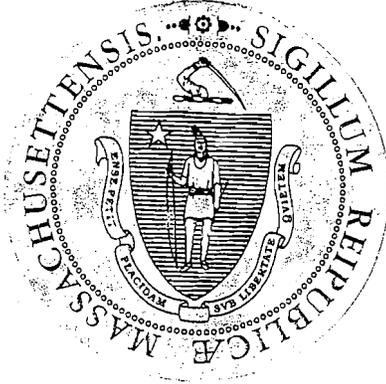
13.1 The Advisory Council shall consist of fifteen persons, including a Chair, each of whom shall be appointed by the Governor. All members shall serve without compensation at the pleasure of the Governor in a solely advisory capacity.

13.2 The Advisory Council's work shall include, but need not be limited to, making written recommendations to the Governor concerning actions, policies, and practices that the Commonwealth should implement to ensure that the objectives of this Executive Order are accomplished.

13.3 The Advisory Council shall meet at such times and places as determined by the Chair and shall submit an initial report containing its written recommendations to the Governor no later than 60 days following the appointment of the Council's 15 members. Thereafter, the Advisory Council shall meet at least semi-annually and submit supplemental reports to the Governor no less than once per year.

Section 14. Nothing in this Executive Order shall be construed to preclude or otherwise limit the continuation or implementation of any lawful affirmative action programs or other programs that support the objectives of this Executive Order.

Section 15. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded or revoked by subsequent Executive Order.



Given at the Executive Chamber in Boston this 30th day of January in the year of our Lord two thousand and seven, and of the Independence of the United States of America two hundred and thirty-one.

A handwritten signature in black ink, appearing to read "Deval L. Patrick".

DEVAL L. PATRICK, GOVERNOR
Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin".

William Francis Galvin
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 725-4000

2007 JUN -6 PM 1:19
OFFICE OF THE SECRETARY OF STATE
DIVISION

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

By His Excellency

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 486

Establishing the Governor's Council to Address Sexual and Domestic Violence

(Revoking and Superseding Executive Order 450)

WHEREAS, sexual and domestic violence afflicts thousands of victims in Massachusetts;

WHEREAS, according to the National Institute of Justice, approximately 1.5 million women and 834,000 men are raped or physically assaulted by an intimate partner each year;

WHEREAS, according to the Executive Office of Public Safety, in 2006, half of all sexual assault victims who sought medical attention were under the age of 20, a third were under the age of 18, and 7% were under the age of 13;

WHEREAS, according to the Executive Office of Public Safety, in 2006, there were 24 domestic violence-related homicides in Massachusetts;

WHEREAS, according to the Massachusetts Department of Public Health, in 2005, 2,691 unduplicated incidents of sexual assault were reported to rape crisis centers and Llámanos y hablemos, the statewide Spanish language helpline;

WHEREAS, according to the United States Department of Health and Human Services, in 2005, 35,887 children in Massachusetts were found to be victims of maltreatment and 975 of those children were victims of sexual abuse;

WHEREAS, according to the Office of the Commissioner of Probation, approximately 43,000 children in Massachusetts are exposed to domestic violence annually, and an even greater number of cases go unreported;

WHEREAS, residents of this Commonwealth must be free from fear of sexual and domestic violence, and must know that all agencies of government are committed to devising new, innovative strategies to address sexual and domestic violence; providing the necessary services and legal protections to enable survivors to achieve health and safety; and ensuring that perpetrators are held fully accountable for their actions;

WHEREAS, previous administrations have regularly used advisory groups and commissions to develop useful and well-considered recommendations to reduce the frequency and severity of sexual and domestic assault, and to coordinate efforts to confront sexual and domestic violence among public safety, health, human services, and educational officials, as well as the legal, religious and business communities; and

WHEREAS, it is imperative that any future multi-agency, multi-disciplinary working group focus on devising concrete proposals that will help to eliminate sexual and domestic violence from this Commonwealth;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. 1, do hereby revoke Executive Order 450 and order as follows:

Section 1. There is hereby established the Governor's Council to Address Sexual and Domestic Violence. The Council shall make recommendations on all issues related to sexual and domestic violence in the Commonwealth.

Section 2. As its first order of business, the Council shall complete the following assignments by March 31, 2008:

- a. Devise a guide for Massachusetts law enforcement agencies to consult when responding to a report of an adult sexual assault;
- b. Revise and update the Massachusetts Policy for Law Enforcement Response to Domestic Violence, pursuant to Chapter 403 of the Acts of 1990. This policy was last updated in 2002.

Section 3. In addition to its specific assignments, the Council shall:

- a. consider the need for further legislation to protect victims, punish and treat perpetrators, and reduce and prevent the incidence of sexual and domestic violence;
- b. evaluate, on a continuing basis, the response of the law enforcement, judicial, and health and human service systems to the needs of sexual and domestic violence victims;
- c. consider further policy initiatives to assure the effective, uniform, and collaborative response by law enforcement, judicial, health and human service agencies, including but not limited to the enhancement of interagency communication and cooperation, as well as the timely and accurate sharing of information between law enforcement, judicial personnel, the private bar, and other victim service providers;
- d. consider measures to prevent and reduce the incidence of sexual and domestic violence through public education and awareness of sexual and domestic violence as criminal acts;

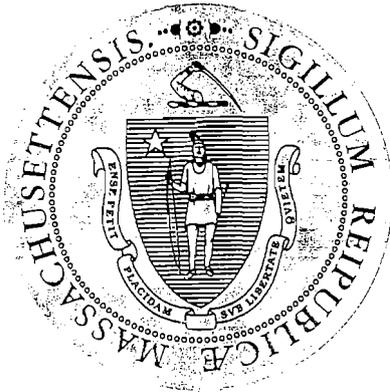
- e. consider measures which will better enable victims of domestic violence (and sexual violence when applicable) to transition from violent relationships to violence-free lives, including providing victims with necessary protection shelter, advocacy, counseling, and other identified services;
- f. locate and apply current research and evaluation information to program initiatives and policy development and identify and suggest solutions to address gaps in current knowledge of sexual and domestic violence;
- g. consider other measures to address sexual and domestic violence, and child sexual abuse, as the Council deems appropriate; and
- h. develop and submit to the Governor an annual report of the Council's findings and recommendations.

Section 4. The Lieutenant Governor or his designee shall Chair the Council. The Council shall be located within the Executive Office of Public Safety and Security. The Council shall consist of up to 30 members which the Governor shall, from time to time, appoint. Council members shall serve at the pleasure of the Governor and without compensation.

Section 5. The administrative operations of the Council shall vest with an Executive Director, who shall be appointed by, and serve at the pleasure of, the Governor. With the approval of the Chair, the Executive Director may create committees to carry out the Council's responsibilities.

Section 6. The Council shall meet at such times and at such intervals as the Chair or his designee shall direct.

Section 7. This Executive Order shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.



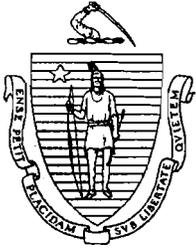
Given at the Executive Chambers in Boston this 6th day of June in the year of our Lord two thousand and seven and of the independence of the United States, two hundred and thirty-one.

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK
GOVERNOR
Commonwealth of Massachusetts

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS



THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON, 02133

(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

2007 DEC 20 PM 3:19
OFFICE OF THE SECRETARY OF STATE

By His Excellency

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 494

Establishing the Office of the Child Advocate

WHEREAS, one of the highest duties of the Commonwealth is to safeguard the health, safety and well-being of all its children;

WHEREAS, it is critical to ensure the highest level of accountability within agencies that are charged with the care and protection of the Commonwealth's children; and

WHEREAS, independent and effective oversight of agencies responsible for the care and protection of children is essential to fulfilling the Commonwealth's responsibility to its children;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. 1, do hereby establish the Office of the Child Advocate as follows:



ARTICLE I. Purpose and Scope of the Office of the Child Advocate

1.1 The Office of the Child Advocate shall:

- (a) seek to ensure that children involved with agencies within the Executive Office of Health and Human Services (Executive Office) and, in particular, children served by the child welfare or juvenile justice systems receive timely, safe, and effective services;
- (b) examine, on a system-wide basis, the care and services that agencies of the Executive Office provide to and for children; and
- (c) advise those at the highest levels of state government, as well as the public, how the Commonwealth can improve its services to and for children.

ARTICLE II. Appointment of the Child Advocate

2.1 The Office of the Child Advocate shall be established within the Executive Office and shall be under the direction of the Child Advocate.

2.2 The Governor shall appoint the Child Advocate to a term coterminous with that of the Governor, except that the Child Advocate shall continue to serve following the end of a governor's term until a successor is appointed.

2.3 The Child Advocate shall report directly to the Secretary of Health and Human Services.

2.4 The Governor shall select the Child Advocate from three names submitted to him or her by the Ad Hoc Committee to recommend a Child Advocate.

2.5 The Ad Hoc Committee shall consist of the following members: the Secretary of Health and Human Services; the Commissioner of the Department of Social Services; the Commissioner of the Department of Youth Services; a pediatrician experienced in treating child abuse designated by the Massachusetts chapter of the American Academy of Pediatrics; a child psychiatrist designated by the Massachusetts Psychiatric Society; a child psychologist designated by the Massachusetts Psychological Association; a representative from the Massachusetts Association of Mental Health; a representative of an organization which advocates on behalf of children at risk of abuse and neglect, designated by the Children's League of Massachusetts; a lawyer experienced in care and protection cases designated by the Massachusetts Bar Association; a social worker designated by the Massachusetts Chapter of the National Association of Social Workers; a person with experience in the juvenile justice system designated by the Chief Justice of the Juvenile Court Department; and a representative of organized labor to be designated by the Secretary of Labor and Workforce Development.

2.6 The Child Advocate shall devote full time to the duties of his or her office.

2.7 The Ad Hoc Committee shall recommend three names to the Governor no later than February 28, 2008.

2.8 A vacancy occurring in the position of Child Advocate shall be filled in the same manner as the original appointment, except that if the Child Advocate ceases to serve for any reason, the Governor shall appoint an acting Child Advocate who shall serve until the appointment of a successor.

ARTICLE III. Powers and Duties of the Office of the Child Advocate

3.1 The Office of the Child Advocate will be empowered to investigate, review, monitor and evaluate “critical incidents” of child abuse or neglect. A “critical incident” is one in which (a) there has been a fatality or near fatality of a child who is in the custody of or receiving services from the Executive Office or one of its constituent agencies; or (b) the circumstances of the incident are such that there is reason to believe that the Executive Office or one of its constituent agencies failed in its duty to protect the child and, as a result, the child was at imminent risk of, or suffered, serious injury.

3.2 The Office of the Child Advocate will be authorized to review any agency investigation of a critical incident and conduct its own independent investigation of any critical incident, if needed. The purpose of the critical incident investigation shall be to determine (a) the circumstances surrounding the child’s death or near fatality; (b) if the agency’s activities and services provided to the child and his or her family were adequate, appropriate, and complied with agency policies; and (c) whether the agency’s policy, regulations, training, and/or provision of services can be improved in any way.

3.3 Before investigating any critical incident, the Child Advocate shall determine whether an investigation is being conducted by a law enforcement agency, an agency within the Executive Office, and/or the Department of Early Education and Care, and if so, the Child Advocate may defer to such agency’s investigation and/or coordinate efforts to minimize the impact on the child, family and/or staff of the executive branch agency involved. In every case, the Child Advocate shall ensure that the Commissioner of the relevant executive branch agency has been notified of the Child Advocate’s involvement before the Child Advocate begins his or her investigation.

3.4 The Child Advocate shall be empowered to receive complaints regarding Executive Office agencies' provision of services to children, if such complaints have not been resolved, within a reasonable time, at the agency level. Before investigating any complaint, the Child Advocate shall consider whether the complaint can be addressed through other means.

3.5 Subject to applicable federal and state law, the Child Advocate or his or her designee shall have access at any and all reasonable times to any facility, residence, program, or part thereof, that is operated, licensed, or funded by an agency within the Executive Office, and to all relevant records, reports, materials, and employees in order to better understand the needs of children in the custody of the Commonwealth or who are receiving services from an agency within the Executive Office. The Child Advocate shall be bound by any limitations on the use or release of information imposed by law upon the party furnishing such information.

3.6 At the request of the Governor or the Secretary of Health and Human Services, the Child Advocate will perform oversight functions to ensure that agencies serving children are fulfilling their obligations in the most effective and efficient manner. The Child Advocate will report and make recommendations, as appropriate, with respect to system-wide problems that might reduce the effectiveness of the care and services provided to children and their families, including suggested legislative and regulatory changes.

3.7 The Child Advocate may share with the Secretary of Health and Human Services, the Commissioner of the Executive Office agency involved, or other agency personnel the report of, or the results of, a critical incident or other investigation involving that agency. Any executive branch employees who receive or read such a document will be bound by the confidentiality provisions of this Article and any other applicable federal or state law.

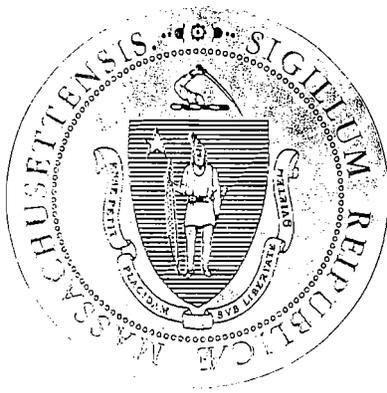
3.8 The Child Advocate, in consultation with the Executive Office and its agencies, shall develop internal procedures appropriate for the effective performance of his or her duties.

ARTICLE IV. Reports

4.1 The Child Advocate shall report annually to the Governor, the Speaker of the House, the Senate President and the Secretary of Health and Human Services on the activities of the Office of the Child Advocate, priorities for children's services, and recommendations regarding how the Commonwealth may better provide services to and for children. This report shall be made public.

ARTICLE V. Miscellaneous

5.1 To ensure the effective coordination and cooperation between the Office of the Child Advocate and agencies serving children, the Governor hereby directs each such agency within the Executive branch to make every reasonable effort to communicate and cooperate with the Office of the Child Advocate.



Given at the Executive Chamber in Boston this 20th day of December in the year of our Lord two thousand and seven and of the Independence of the United States two hundred and thirty-one.

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK
GOVERNOR
Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin", written over a horizontal line.

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

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Roy Loewenstein <loewenstein.roy@gmail.com>

FW: Boards and Commissions - breakdown

Hanscom, Juli (GOV) <juli.hanscom@state.ma.us>

Tue, Jun 25, 2013 at 11:19 AM

To: "Roy Loewenstein (loewenstein.roy@gmail.com)" <loewenstein.roy@gmail.com>

From: Feltch, Lauren (GOV)
Sent: Tuesday, June 25, 2013 11:19 AM
To: Hanscom, Juli (GOV)
Subject: Boards and Commissions - breakdown

Hey!

We have appointed the following candidates since approximately June of 2007.

Let me know if you need anything additional!

Men - 2118

Women - 1438

White - 2857

Black - 314

Asian - 145

Latino - 179

Native American - 7

Lauren Feltch

Deputy Director, Boards and Commissions

Office of Governor Deval Patrick

State House, Room 271-M

Boston, MA 02133

Phone: (617)725-4010

Fax: (617)725-4042



Acts
2010

CHAPTER 23 AN ACT RELATIVE TO HARASSMENT PREVENTION ORDERS.

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

The General Laws are hereby amended by inserting after chapter 258D the following chapter:-

CHAPTER 258E
HARASSMENT PREVENTION ORDERS

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Abuse”, attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.

“Harassment”, (i) 3 or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property; or (ii) an act that: (A) by force, threat or duress causes another to involuntarily engage in sexual relations; or (B) constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.

“Court”, the district or Boston municipal court, the superior court or the juvenile court departments of the trial court.

“Law officer”, any officer authorized to serve criminal process.

“Malicious”, characterized by cruelty, hostility or revenge.

“Protection order issued by another jurisdiction”, an injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or a tribal court that is issued for the purpose of preventing violent or threatening acts, abuse or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection.

Section 2. Proceedings under this chapter shall be filed, heard and determined in the superior court

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department or the Boston municipal court department or the respective divisions of the juvenile or district court departments having venue over the plaintiff's residence. The juvenile court shall have jurisdiction over all proceedings under this chapter in which both the plaintiff and the defendant are under the age of 17.

Section 3. (a) A person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment. A person may petition the court under this chapter for an order that the defendant:

- (i) refrain from abusing or harassing the plaintiff, whether the defendant is an adult or minor;
- (ii) refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;
- (iii) remain away from the plaintiff's household or workplace, whether the defendant is an adult or minor; and
- (iv) pay the plaintiff monetary compensation for the losses suffered as a direct result of the harassment; provided, however, that compensatory damages shall include, but shall not be limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement of locks, medical expenses, cost for obtaining an unlisted phone number and reasonable attorney's fees.

(b) The court may order that information in the case record be impounded in accordance with court rule.

(c) No filing fee shall be charged for the filing of the complaint. The plaintiff shall not be charged for certified copies of any orders entered by the court, or any copies of the file reasonably required for future court action or as a result of the loss or destruction of plaintiff's copies.

(d) Any relief granted by the court shall not extend for a period exceeding 1 year. Every order shall, on its face, state the time and date the order is to expire and shall include the date and time that the matter will again be heard. If the plaintiff appears at the court at the date and time the order is to expire, the court shall determine whether or not to extend the order for any additional time reasonably necessary to protect the plaintiff or to enter a permanent order. When the expiration date stated on the order is on a date when the court is closed to business, the order shall not expire until the next date that the court is open to business. The plaintiff may appear on such next court business day at the time designated by the order to request that the order be extended. The court may also extend the order upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff from harassment. The fact that harassment has not occurred during the pendency of an order shall not, in itself, constitute sufficient ground for denying or failing to extend the order, or allowing an order to expire or be vacated or for refusing to issue a new order.

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(e) The court may modify its order at any subsequent time upon motion by either party; provided, however, that the non-moving party shall receive sufficient notice and opportunity to be heard on said modification. When the plaintiff's address is inaccessible to the defendant as provided in section 10 and the defendant has filed a motion to modify the court's order, the court shall be responsible for notifying the plaintiff. In no event shall the court disclose any such inaccessible address.

(f) The court shall not deny any complaint filed under this chapter solely because it was not filed within a particular time period after the last alleged incident of harassment.

(g) An action commenced under this chapter shall not preclude any other civil or criminal remedies. A party filing a complaint under this chapter shall be required to disclose any prior or pending actions involving the parties.

Section 4. Upon the filing of a complaint under this chapter, a complainant shall be informed that the proceedings hereunder are civil in nature and that violations of orders issued hereunder are criminal in nature. Further, a complainant shall be given information prepared by the appropriate district attorney's office that other criminal proceedings may be available and such complainant shall be instructed by such district attorney's office relative to the procedures required to initiate criminal proceedings including, but not limited to, a complaint for a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 and 43A of chapter 265 or section 3 of chapter 272. Whenever possible, a complainant shall be provided with such information in the complainant's native language.

Section 5. Upon the filing of a complaint under this chapter, the court may enter such temporary orders as it deems necessary to protect a plaintiff from harassment, including relief as provided in section 3.

If the plaintiff demonstrates a substantial likelihood of immediate danger of harassment, the court may enter such temporary relief orders without notice as it deems necessary to protect the plaintiff from harassment and shall immediately thereafter notify the defendant that the temporary orders have been issued. The court shall give the defendant an opportunity to be heard on the question of continuing the temporary order and of granting other relief as requested by the plaintiff not later than 10 court business days after such orders are entered.

Notice shall be made by the appropriate law enforcement agency as provided in section 9.

If the defendant does not appear at such subsequent hearing, the temporary orders shall continue in effect without further order of the court.

Section 6. When the court is closed for business or the plaintiff is unable to appear in court because of severe hardship due to the plaintiff's physical condition, the court may grant relief to the plaintiff as provided under section 5 if the plaintiff demonstrates a substantial likelihood of immediate danger of

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harassment. In the discretion of the justice, such relief may be granted and communicated by telephone to an officer or employee of an appropriate law enforcement agency, who shall record such order on a form of order promulgated for such use by the chief justice for administration and management and shall deliver a copy of such order on the next court day to the clerk or clerk-magistrate of the court having venue and jurisdiction over the matter. If relief has been granted without the filing of a complaint pursuant to this section, the plaintiff shall appear in court on the next available business day to file a complaint. If the plaintiff in such a case is unable to appear in court without severe hardship due to the plaintiff's physical condition, a representative may appear in court, on the plaintiff's behalf and file the requisite complaint with an affidavit setting forth the circumstances preventing the plaintiff from appearing personally. Notice to the plaintiff and defendant and an opportunity for the defendant to be heard shall be given as provided in said section 5.

Any order issued under this section and any documentation in support thereof shall be certified on the next court day by the clerk or clerk-magistrate of the court issuing such order to the court having venue and jurisdiction over the matter. Such certification to the court shall have the effect of commencing proceedings under this chapter and invoking the other provisions of this chapter but shall not be deemed necessary for an emergency order issued under this section to take effect.

Section 7. Any protection order issued by another jurisdiction shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

A person entitled to protection under a protection order issued by another jurisdiction may file such order with the appropriate court by filing with the court a certified copy of such order. Such person shall swear under oath in an affidavit, to the best of such person's knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the clerk or clerk-magistrate of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

A law officer may presume the validity of, and enforce in accordance with section 8, a copy of a protection order issued by another jurisdiction which has been provided to the law officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law officers may rely on such statement by the person protected by such order.

Section 8. Whenever a law officer has reason to believe that a person has been abused or harassed or is in danger of being abused or harassed, such officer shall use all reasonable means to prevent further abuse or harassment. Law officers shall make every effort to do the following as part of the emergency response:

- (i) assess the immediate physical danger to the victim and provide assistance reasonably intended to mitigate the safety risk;

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- (ii) if there is observable injury to the victim or if the victim is complaining of injury, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;
- (iii) if a sexual assault has occurred, notify the victim that there are time-sensitive medical or forensic options that may be available, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;
- (iv) provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place; and
- (v) provide adequate notice to the victim of his rights including, but not limited to, obtaining a harassment prevention order.

Section 9. When considering a complaint filed under this chapter, the court shall order a review of the records contained within the court activity record information system and the statewide domestic violence recordkeeping system, as provided in chapter 188 of the acts of 1992 and maintained by the commissioner of probation, and shall review the resulting data to determine whether the named defendant has a civil or criminal record involving violent crimes or abuse. Upon receipt of information that an outstanding warrant exists against the named defendant, a judge shall order that the appropriate law enforcement officials be notified and shall order that any information regarding the defendant's most recent whereabouts shall be forwarded to such officials. In all instances in which an outstanding warrant exists, the court shall make a finding, based upon all of the circumstances, as to whether an imminent threat of bodily injury exists to the petitioner. In all instances in which such an imminent threat of bodily injury is found to exist, the judge shall notify the appropriate law enforcement officials of such finding and such officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.

Whenever the court orders that the defendant refrain from harassing the plaintiff or have no contact with the plaintiff under section 3, 5 or 6, the clerk or clerk-magistrate shall transmit: (i) to the office of the commissioner of probation information for filing in the court activity record information system or the statewide domestic violence recordkeeping system as provided in said chapter 188 of the acts of 1992 or in a recordkeeping system created by the commissioner of probation to record the issuance of, or violation of, prevention orders issued pursuant to this chapter; and (ii) 2 certified copies of each such order and 1 copy of the complaint and summons forthwith to the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1 copy of each order upon the defendant, together with a copy of the complaint and order and summons. The law enforcement agency shall promptly make its return of service to the court. The commissioner of probation may develop and implement a statewide harassment prevention order recordkeeping system.

Law officers shall use every reasonable means to enforce such harassment prevention orders. Law enforcement agencies shall establish procedures adequate to ensure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order. The court shall notify the appropriate law enforcement agency in writing whenever any such order is vacated and

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shall direct the agency to destroy all record of such vacated order and such agency shall comply with that directive.

Each harassment prevention order issued shall contain the following statement:

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

Any violation of such order or a protection order issued by another jurisdiction shall be punishable by a fine of not more than \$5,000, or by imprisonment for not more than 2½ years in a house of correction, or both. In addition to, but not in lieu of, the foregoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a violation of such an order to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund. For any violation of such order, the court may order the defendant to complete an appropriate treatment program based on the offense.

In each instance in which there is a violation of a harassment prevention order or a protection order issued by another jurisdiction, the court may order the defendant to pay the plaintiff for all damages including, but not limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement locks, medical expenses, cost for obtaining an unlisted telephone number and reasonable attorney's fees.

Any such violation may be enforced by the court. Criminal remedies provided herein are not exclusive and do not preclude any other available civil or criminal remedies. The court may enforce by civil contempt procedure a violation of its own court order.

Section 8 of chapter 136 shall not apply to any order, complaint or summons issued pursuant to this section.

Section 10. The records of cases arising out of an action brought under this chapter in which the plaintiff or defendant is a minor shall be withheld from public inspection except by order of the court; provided, however, that such records shall be open, at all reasonable times, to the inspection of the minor, such minor's parent, guardian and attorney and to the plaintiff and the plaintiff's attorney.

The plaintiff's residential address, residential telephone number and workplace name, address and telephone number, contained within the court records of cases arising out of an action brought by a plaintiff under this chapter, shall be confidential and withheld from public inspection, except by order of the court; provided, however, that the plaintiff's residential address and workplace address shall appear on the court order and be accessible to the defendant and the defendant's attorney unless the plaintiff specifically requests that this information be withheld from the order. All confidential portions of the records shall be accessible at all reasonable times to the plaintiff and plaintiff's attorney, to others specifically authorized by the plaintiff to obtain such information and to prosecutors, victim-witness

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advocates as defined in section 1 of chapter 258B, sexual assault counselors as defined in section 20J of chapter 233 and law officers, if such access is necessary in the performance of their duties. This paragraph shall apply to any protection order issued by another jurisdiction filed with a court of the commonwealth pursuant to section 7. Such confidential portions of the court records shall not be deemed to be public records under clause Twenty-sixth of section 7 of chapter 4.

Section 11. The chief justice for administration and management shall adopt a form of complaint for use under this chapter which shall be in such form and language to permit a plaintiff to prepare and file such complaint pro se.

Section 12. The court shall impose an assessment of \$350 against any person who has been referred to a treatment program as a condition of probation. Such assessment shall be in addition to the cost of the treatment program. In the discretion of the court, such assessment may be reduced or waived if the court finds that such person is indigent or that payment of the assessment would cause the person, or the dependents of such person, severe financial hardship. Assessments made pursuant to this section shall be in addition to any other fines, assessments or restitution imposed in any disposition. All funds collected by the court pursuant to this section shall be transmitted monthly to the state treasurer, who shall deposit such funds into the General Fund.

Approved, February 9, 2010.



Acts

2010

CHAPTER 74 AN ACT RELATIVE TO ASSAULT AND BATTERY BY MEANS OF A BODILY SUBSTANCE UPON CORRECTIONAL FACILITY EMPLOYEES AND EXPANDING THE PROHIBITION ON THE DISSEMINATION OF OBSCENITY.

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

SECTION 1. Chapter 127 of the General Laws is hereby amended by striking out section 38B, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 38B. (a) For the purposes of this section, “bodily substance” shall mean any human secretion, discharge or emission including, but not limited to, blood, saliva, mucous, semen, urine or feces.

(b) Any person in the custody of a correctional facility, including any jail, house of correction or state prison, who commits an assault or an assault and battery upon an officer or other employee, any volunteer or employee of a contractor in any such facility or any duly authorized officer or other employee of any such facility engaged in the transportation of a prisoner for any lawful purpose shall be punished by imprisonment for not more than 2 and one-half years in a jail or house of correction or for not more than 10 years in a state prison. Such sentence shall begin from and after all sentences currently outstanding and unserved at the time of said assault or assault and battery.

(c) Any person in the custody of a correctional facility, including any jail, house of correction or state prison, who commits an assault or an assault and battery by means of a bodily substance upon an officer or other employee, any volunteer or employee of a contractor in any such facility or any duly authorized officer or other employee of any such facility engaged in the transportation of a prisoner for any lawful purpose shall be punished by imprisonment for not more than 2 and one-half years in a jail or house of correction or for not more than 10 years in a state prison. Such sentence shall begin from and after all sentences currently outstanding and unserved at the time of said assault or assault and battery.

SECTION 1A. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word “ninety-four C”, in line 16, the following words:- , section 38B of chapter 127.

SECTION 2. Section 31 of chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 40 to 43, inclusive, the definition of “Matter” and inserting in place thereof the following definition:-

“Matter”, any handwritten or printed material, visual representation, live performance or sound

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recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances, or any electronic communication including, but not limited to, electronic mail, instant messages, text messages, and any other communication created by means of use of the Internet or wireless network, whether by computer, telephone, or any other device or by any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

SECTION 3. The definition of “visual material” in said section 31 of said chapter 272, as so appearing, is hereby amended, by inserting after the word “computer”, the following words:- , telephone or any other device capable of electronic data storage or transmission.

Approved, April 12, 2010.



Acts

2010

CHAPTER 92 AN ACT RELATIVE TO BULLYING IN SCHOOLS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the prevention of bullying in schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 15MMMMM the following section:-

15NNNNN. The governor shall annually issue a proclamation setting apart the fourth Wednesday in January as No Name Calling Day to increase public awareness of the devastating effects of verbal bullying, to encourage students to use positive dialogue and pledge not to use hurtful names on this designated day, to promote tolerance and respect for differences and to reaffirm the commitment of the citizens of the commonwealth to basic human rights and dignity.

SECTION 2. The third paragraph of section 1D of chapter 69 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The standards may provide for instruction in the issues of nutrition, physical education, AIDS education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse prevention.

SECTION 3. The first paragraph of section 37H of chapter 71 of the General Laws, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- The policies shall also prohibit bullying as defined in section 37O and shall include the student-related sections of the bullying prevention and intervention plan required by said section 37O.

SECTION 4. The third paragraph of said section 37H of said chapter 71, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The student handbook shall include an age-appropriate summary of the student-related sections of the bullying prevention and intervention plan required by section 37O.

SECTION 5. Said chapter 71 is hereby further amended by inserting after section 37N the following section:-

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Section 37O. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meaning:-

"Approved private day or residential school", a school that accepts, through agreement with a school committee, a child requiring special education pursuant to section 10 of chapter 71B.

"Bullying", the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of this section, bullying shall include cyber-bullying.

"Charter school", commonwealth charter schools and Horace Mann charter schools established pursuant to section 89 of chapter 71.

"Cyber-bullying", bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.

"Collaborative school", a school operated by an educational collaborative established pursuant to section 4E of chapter 40.

"Department", the department of elementary and secondary education.

"Hostile environment", a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

"Plan", a bullying prevention and intervention plan established pursuant to subsection (d).

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“Perpetrator”, a student who engages in bullying or retaliation.

“School district”, the school department of a city or town, a regional school district or a county agricultural school.

“School grounds”, property on which a school building or facility is located or property that is owned, leased or used by a school district, charter school, non-public school, approved private day or residential school, or collaborative school for a school-sponsored activity, function, program, instruction or training.

“Victim”, a student against whom bullying or retaliation has been perpetrated.

(b) Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school. Nothing contained herein shall require schools to staff any non-school related activities, functions, or programs.

Retaliation against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying shall be prohibited.

(c) Each school district, charter school, approved private day or residential school and collaborative school shall provide age-appropriate instruction on bullying prevention in each grade that is incorporated into the curriculum of the school district or school. The curriculum shall be evidence-based.

(d) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The consultation shall include, but not be limited to, notice and a public comment period; provided, however, that a non-public school shall only be required to give notice to and provide a comment period for families that have a child attending the school. The plan shall be updated at least biennially.

Each plan shall include, but not be limited to: (i) descriptions of and statements prohibiting bullying,

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cyber-bullying and retaliation; (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigating reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provided, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law.

A school district, charter school, non-public school, approved private day or residential school or collaborative school may establish separate discrimination or harassment policies that include categories of students. Nothing in this section shall prevent a school district, charter school, non-public school, approved private day or residential school or collaborative school from remediating any discrimination or harassment based on a person's membership in a legally protected category under local, state or federal law.

The plan for a school district, charter school, approved private day or residential school and collaborative school shall include a provision for ongoing professional development to build the skills of all staff members, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to prevent, identify and respond to bullying. The content of such professional development shall include, but not be limited to: (i) developmentally appropriate strategies to prevent bullying incidents; (ii) developmentally appropriate strategies for immediate, effective interventions to stop bullying incidents; (iii) information regarding the complex interaction and power differential that can take place between and among a perpetrator, victim and witnesses to the bullying; (iv) research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying in the school environment; (v) information on the incidence and nature of cyber-bullying; and (vi) internet safety issues as they relate to cyber-bullying. The

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department shall identify and offer information on alternative methods for fulfilling the professional development requirements of this section, at least 1 of which shall be available at no cost to school districts, charter schools, approved private day or residential schools and collaborative schools.

The plan shall include provisions for informing parents and guardians about the bullying prevention curriculum of the school district or school and shall include, but not be limited to: (i) how parents and guardians can reinforce the curriculum at home and support the school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

The department shall promulgate rules and regulations on the requirements related to a principal's duties under clause (viii) of the second paragraph of this subsection; provided, that school districts, charter schools, approved private day or residential schools and collaborative schools shall be subject to the regulations. A non-public school shall develop procedures for immediate notification by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator.

(e)(1) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to students and parents or guardians, in age-appropriate terms and in the languages which are most prevalent among the students, parents or guardians, annual written notice of the relevant student-related sections of the plan.

(2) Each school district, charter school, non-public school, approved private day or residential school and collaborative school shall provide to all school staff annual written notice of the plan. The faculty and staff at each school shall be trained annually on the plan applicable to the school. Relevant sections of the plan relating to the duties of faculty and staff shall be included in a school district or school employee handbook.

(3) The plan shall be posted on the website of each school district, charter school, non-public school, approved private day or residential school and collaborative school.

(f) Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at his school.

(g) A member of a school staff, including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional, shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt of such a report, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued

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against a perpetrator; (ii) take appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; and (iv) notify the parents or guardians of the victim, and to the extent consistent with state and federal law, notify them of the action taken to prevent any further acts of bullying or retaliation.

(h) If an incident of bullying or retaliation involves students from more than one school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school first informed of the bullying or retaliation shall, consistent with state and federal law, promptly notify the appropriate administrator of the other school district or school so that both may take appropriate action. If an incident of bullying or retaliation occurs on school grounds and involves a former student under the age of 21 who is no longer enrolled in a local school district, charter school, non-public school, approved private day or residential school or collaborative school, the school district or school informed of the bullying or retaliation shall contact law enforcement consistent with the provisions of clause (viii) of the second paragraph of subsection (d).

(i) Nothing in this section shall supersede or replace existing rights or remedies under any other general or special law, nor shall this section create a private right of action.

(j) The department, after consultation with the department of public health, the department of mental health, the attorney general, the Massachusetts District Attorneys Association and experts on bullying shall: (i) publish a model plan for school districts and schools to consider when creating their plans; and (ii) compile a list of bullying prevention and intervention resources, evidence-based curricula, best practices and academic-based research that shall be made available to schools. The model plan shall be consistent with the behavioral health and public schools framework developed by the department in accordance with section 19 of chapter 321 of the acts of 2008. The resources may include, but shall not be limited to, print, audio, video or digital media; subscription based online services; and on-site or technology-enabled professional development and training sessions. The department shall biennially update the model plan and the list of the resources, curricula, best practices and research and shall post them on its website.

SECTION 6. Said chapter 71 is hereby further amended by adding after section 92, added by section 8 of chapter 12 of the acts of 2010, the following section: -

Section 93. Every public school providing computer access to students shall have a policy regarding internet safety measures to protect students from inappropriate subject matter and materials that can be accessed via the internet and shall notify the parents or guardians of all students attending the school of the policy. The policy and any standards and rules enforcing the policy shall be prescribed by the school committee in conjunction with the superintendent or the board of trustees of a commonwealth charter school.

SECTION 7. The sixth paragraph of section 3 of chapter 71B of the General Laws, as appearing in the

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2008 Official Edition, is hereby amended by inserting after the third sentence the following sentence:-

Whenever the evaluation of the Individualized Education Program team indicates that the child has a disability that affects social skills development or that the child is vulnerable to bullying, harassment or teasing because of the child's disability, the Individualized Education Program shall address the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing.

SECTION 8. Said section 3 of said chapter 71B, as so appearing, is hereby amended by inserting after the word "proficiencies", in line 154, the following words:- ; the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing.

SECTION 9. Section 43 of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$1,000, or imprisonment in the house of correction for not more than 2 ½ years or by both such fine and imprisonment. The conduct, acts or threats described in this subsection shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

SECTION 10. Section 43A of said chapter 265, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress, shall be guilty of the crime of criminal harassment and shall be punished by imprisonment in a house of correction for not more than 2 ½ years or by a fine of not more than \$1,000, or by both such fine and imprisonment. The conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or

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photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

SECTION 11. Subsection (3) of section 13B of chapter 268 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such act shall include, but not be limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including but not limited to any device that transfers signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.

SECTION 12. Chapter 269 of the General Laws is hereby amended by striking out section 14A, as so appearing, and inserting in place thereof the following section:-

Section 14A. Whoever telephones another person or contacts another person by electronic communication, or causes a person to be telephoned or contacted by electronic communication, repeatedly, for the sole purpose of harassing, annoying or molesting the person or the person's family, whether or not conversation ensues, or whoever telephones or contacts a person repeatedly by electronic communication and uses indecent or obscene language to the person, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months, or by both such a fine and imprisonment.

For purposes of this section, "electronic communication" shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

SECTION 13. The department of elementary and secondary education shall periodically review school districts, charter schools, approved private day or residential schools and collaborative schools to determine whether the districts and schools are in compliance with this act.

SECTION 14. The department of elementary and secondary education shall issue a report detailing cost-effective ways to implement the professional development requirements in subsection (d) of section 37O of chapter 71 of the General Laws; provided, further, that the report shall: (i) include an option available at no cost to school districts, charter schools, approved private day or residential schools and collaborative schools; (ii) explore the feasibility of an option for a "train-the-trainer" model, so-called, with demonstrated success and an option for online professional development; and (iii) include any other options which may be cost effective; provided, further, that the report shall include a cost estimate for the professional development; and provided, further, that the report shall be provided to the clerks of the senate and house of representatives not later than August 31, 2010; and provided, further, that the clerks of the senate and house of representatives shall forward the report to the chairs

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of the house and senate committees on ways and means and the house and senate chairs of the joint committee on education.

SECTION 15. School districts, charter schools, approved private day or residential schools and collaborative schools shall establish a bullying prevention and intervention plan in compliance with this act and shall file the plan with the department of elementary and secondary education on or before December 31, 2010; provided, however, that school districts, charter schools, approved private day or residential schools and collaborative schools shall establish and have in place the professional development provisions of the fourth paragraph of subsection (d) of section 37O of chapter 71 of the General Laws at the start of the 2010-2011 academic year. Non-public schools shall establish a bullying prevention and intervention plan in compliance with this act on or before December 31, 2010.

SECTION 16. The department of elementary and secondary education shall publish guidelines for the implementation of social and emotional learning curricula in kindergarten to grade 12, inclusive, on or before June 30, 2011. The guidelines shall be updated biennially. For purposes of this section, social and emotional learning shall mean the processes by which children acquire the knowledge, attitudes and skills necessary to recognize and manage their emotions, demonstrate caring and concern for others, establish positive relationships, make responsible decisions and constructively handle challenging social situations.

SECTION 17. The department of elementary and secondary education shall promulgate the rules and regulations required under the last paragraph of subsection (d) of Section 37O of chapter 71 of the General Laws on or before September 30, 2010.

SECTION 18. There shall be a special commission to consist of 7 members: 1 of whom shall be the attorney general or a designee who shall chair the commission; 1 of whom shall be a representative of the Massachusetts District Attorneys Association; 1 of whom shall be a representative of the Massachusetts Chiefs of Police Association; 1 of whom shall be a representative of the Massachusetts Sheriffs' Association; 1 of whom shall be a representative of the Massachusetts Association of School Committees; 1 of whom shall be a representative of the Massachusetts Association of School Superintendents; and 1 of whom shall be a representative of the Association of Independent Schools in New England who represents a Massachusetts school, for the purpose of making an investigation and study relative to bullying and cyber-bullying. The commission shall review the General Laws to determine if they need to be amended in order to address bullying and cyber-bullying; provided, further, that the commission shall also investigate parental responsibility and liability for bullying and cyber-bullying. The commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations, by filing the same with the clerks of the senate and the house of representatives who shall forward the same to the chairs of the joint committee on education, the chairs of the joint committee on the judiciary, and the chairs of the house and senate committees on ways and means on or before June 30, 2011.

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Approved, May 3, 2010.



Acts
2007
CHAPTER 155 AN ACT RELATIVE TO PUBLIC SAFETY AT REPRODUCTIVE HEALTH CARE FACILITIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase forthwith public safety at reproductive health care facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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

SECTION 1. Section 120E1/2 of chapter 266 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “within”, in line 2, the following words:- or upon the grounds of.

SECTION 2. Subsection (b) of said section 120E1/2 of said chapter 266, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person shall knowingly enter or remain on a public way or sidewalk adjacent to a reproductive health care facility within a radius of 35 feet of any portion of an entrance, exit or driveway of a reproductive health care facility or within the area within a rectangle created by extending the outside boundaries of any entrance, exit or driveway of a reproductive health care facility in straight lines to the point where such lines intersect the sideline of the street in front of such entrance, exit or driveway.

Approved November 13, 2007.



Acts
2011
CHAPTER 178 AN ACT RELATIVE TO THE COMMERCIAL EXPLOITATION OF PEOPLE.

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

SECTION 1. The definition of "sex offense" in [section 178C of chapter 6 of the General Laws](#), as appearing in the 2010 Official Edition, is hereby amended by inserting after the words "chapter 265", in line 72, the following words:- ; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under [section 26D of said chapter 265](#); trafficking of persons for sexual servitude under section 50 of said chapter 265; a second or subsequent violation of human trafficking for sexual servitude under [section 52 of chapter 265](#).

SECTION 2. The definition of "sex offense involving a child" in said [section 178C of said chapter 6](#), as so appearing, is hereby amended by inserting after the words "chapter 265", in line 105, the following words:- ; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under [section 26D of said chapter 265](#); trafficking of persons for sexual servitude upon a person under 18 years of age under subsection (b) of [section 50 of said chapter 265](#).

SECTION 3. The definition of "sexually violent offense" in said [section 178C of said chapter 6](#), as so appearing, is hereby amended by inserting after the words "chapter 265", in line 129, the following words:- ; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under [section 26D of said chapter 265](#); trafficking of persons for sexual servitude under section 50 of chapter 265; a second or subsequent violation of human trafficking for sexual servitude under [section 52 of chapter 265](#).

SECTION 4. The definition of "sexual assault" in [section 1 of chapter 9A of the General Laws](#), as so appearing, is hereby amended by striking out, in line 19, the words "and 24B of chapter 265" and inserting in place thereof the following words:- , 24B, 26D and 50 of chapter 265.

SECTION 5. [Chapter 10 of the General Laws](#) is hereby amended by inserting after section 66 the following section:-

Section 66A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Victims of Human Trafficking Trust Fund. The fund shall consist of proceeds of assets seized and forfeited pursuant to sections 55 and 56 of chapter 265 and fines and assessments collected pursuant to [sections 50, 51 and 54 of said chapter 265](#), together with any interest or earnings accrued on such monies through investment or deposit. The state treasurer shall

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be the custodian of the fund and shall receive, deposit and invest all monies transmitted to him under this section in accordance with [sections 34 and 38 of chapter 29](#) in such a manner as to secure the highest rate of return available consistent with the safety of the fund, and shall credit interest and earnings on the trust fund corpus to the trust fund. The state treasurer shall transfer funds from the income and receipts of the fund to the victim and witness assistance board, as established in section 4 of chapter 258B, from time to time, at the request of the board. The board shall award and administer grants from the fund, without further appropriation, to public, private non-profit or community-based programs in the commonwealth to provide services to victims of offenses under said [sections 50 and 51 of said chapter 265](#).

The board shall file a report detailing the amount of funds collected and expended from the fund, along with a copy of the written criteria used to expend the funds, to the house and senate committees on ways and means not later than August 15 of each calendar year. Administrative and operational expenses directly attributable to the grants and programs funded by the fund including, but not limited to, the costs of clerical and support personnel, shall not exceed 5 per cent of the total assets of the fund in any 1 fiscal year. Any unexpended balance of monies in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure from such fund in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

SECTION 6. [Section 21 of chapter 119 of the General Laws](#), as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "51A report", the following 2 definitions:-

"Advocate", an employee of a governmental or non-governmental organization or entity providing appropriate services, or a similar employee of the department of children and families who has been trained to work and advocate for the needs of sexually exploited children.

"Appropriate services", the assessment, planning and care provided by a state agency or non-governmental organization or entity, through congregate care facilities, whether publicly or privately funded, emergency residential assessment services, family-based foster care or the community, including food, clothing, medical care, counseling and appropriate crisis intervention services, provided: (i) that such agency, organization or entity has expertise in providing services to sexually exploited children or children who are otherwise human trafficking victims; and (ii) that such services are provided in accordance with such regulations that the department of children and families may adopt or the policies of such department.

SECTION 7. The definition of "child in need of services" in said [section 21 of said chapter 119](#), as so appearing, is hereby amended by striking out the words "or (d) when not otherwise excused from attendance in accordance with lawful and reasonable school regulations, willfully fails to attend school for more than 8 school days in a quarter" and inserting in place thereof the following words :- (d) when not otherwise excused from attendance in accordance with lawful and reasonable school regulations, willfully fails to attend school for more than 8 school days in a quarter; or (e) is a sexually exploited child.

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SECTION 8. Said [section 21 of said chapter 119](#), as so appearing, is hereby further amended by inserting after the definition of "Serious bodily injury", the following definition:-

"Sexually exploited child", any person under the age of 18 who has been subjected to sexual exploitation because such person:

- (1) is the victim of the crime of sexual servitude pursuant to [section 50 of chapter 265](#) or is the victim of the crime of sex trafficking as defined in 22 United States Code 7105;
- (2) engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, in violation of subsection (a) of section 53A of chapter 272, or in exchange for food, shelter, clothing, education or care;
- (3) is a victim of the crime, whether or not prosecuted, of inducing a minor into prostitution under by section 4A of chapter 272; or
- (4) engages in common night walking or common streetwalking under section 53 of chapter 272.

SECTION 9. Said [chapter 119](#) is hereby further amended by inserting after section 39J the following 2 sections:-

Section 39K. (a) Notwithstanding any general or special law to the contrary, the department of children and families, in collaboration with the department of mental health and other appropriate state agencies, shall: (i) provide for the child welfare services needs of sexually exploited children including, but not limited to, services for sexually-exploited children residing in the commonwealth at the time they are taken into custody by law enforcement or are identified by the department as sexually-exploited children, for the duration of any legal or administrative proceeding in which they are either the complaining witness, defendant or the subject child; and (ii) provide appropriate services to a child reasonably believed to be a sexually exploited child in order to safeguard the child's welfare. If a child reasonably believed to be a sexually exploited child declines services or is unable or unwilling to participate in the services offered, the department or any person may file a care and protection petition under section 24. Sexually exploited children shall have access to an advocate. The advocate or a member of the multidisciplinary service team established under section 51D shall accompany the child to all court appearances and may serve as a liaison between the service providers and the court.

(b) The services that shall be provided under this section shall be available to all sexually exploited children, whether they are accessed voluntarily, through a court proceeding under this section or through a referral, which may be made by any person.

(c) In determining the need for and capacity of the services that may be provided under this section, the department of children and families shall recognize that sexually exploited youth have separate and distinct service needs according to gender and appropriate services shall be made available while ensuring that an appropriate continuum of services exists.

(d) The commissioner of the department may, subject to appropriation, contract with nongovernmental organizations or entities with experience working with sexually exploited children to train law enforcement officials likely to encounter sexually exploited children in the course of their law enforcement duties. The training shall include, but not be limited to, awareness and compliance with the provisions of this section, identification of, access to, and the provision of services for sexually-exploited children and any other services the department deems necessary.

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(e) The department may apply to the victim and witness assistance board for grants from the Victims of Human Trafficking Trust Fund, established in section 66A of chapter 10,, grants from the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention or any other federal agency, or grants from any other private source to fund the law enforcement training and services for sexually-exploited children.

(f) The department shall adopt regulations to carry out this section.

Section 39L. (a) Before or after arraignment in any juvenile delinquency or criminal proceeding against a sexually exploited child alleging that such juvenile or such defendant violated the prohibition against common night walking or common streetwalking under section 53 of chapter 272 or the provisions of subsection (a) of section 53A of said chapter 272, there shall be a presumption that a care and protection petition on behalf of such child, or a child in need of services petition under section 39E, shall be filed. Any person, including the juvenile, may file a care and protection petition on behalf of such child, including a petition for emergency commitment under section 24, or a parent or a police officer may file a child in need of services petition under section 39E.

(b) The court may appoint a guardian ad litem and shall hold a hearing on such petition. The court may allow a reasonable delay in the proceedings, including any arraignment, to consider the petition. The necessary findings of fact to support the court's decision shall be reduced to writing and made part of the court record.

(c) Upon a motion by a party to the juvenile delinquency or criminal proceeding or by a guardian ad litem, unless the district attorney or the attorney general objects, and upon a finding that a child alleged to be a juvenile delinquent by reason of violating section 53 of chapter 272 or subsection (a) of section 53A of said chapter 272 is a child in need of care and protection or a child in need of services, the court shall, if arraignment has not yet occurred, indefinitely stay arraignment and place the proceeding on file. If the court finds that the child has failed to substantially comply with the requirements of services or that the child's welfare or safety so requires, the court may remove the proceeding from file, arraign the child and restore the delinquency or criminal complaint to the docket for trial or further proceedings in accordance with the regular course of such proceedings. If arraignment has already occurred, unless the district attorney or the attorney general objects, the court shall place the child on pretrial probation under section 87 of chapter 276. If appropriate, the conditions of such probation shall include, but not be limited to, requiring the child to substantially comply with all lawful orders of the court, including orders relating to any care and protection or child in need of services proceeding, and the child shall also comply with the guidance and services of the department or any designated non-governmental service provider. If the child fails to substantially comply with the conditions of probation or if the child's welfare or safety so requires, the court may in its discretion restore the delinquency or criminal complaint to the docket for trial or further proceedings in accordance with the regular course of such proceedings.

SECTION 10. Section 51A of said chapter 119, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 5 to 9, inclusive, the words "or (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect" and inserting in

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place thereof the following words:-; (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v) being a human trafficking victim as defined by section 20M of chapter 233.

SECTION 11. Subsection (a) of section 51B of said chapter 119, as so appearing, is hereby amended by adding the following sentence:- The department shall immediately report to the district attorney and local law enforcement authorities, a sexually exploited child or a child who is otherwise a human trafficking victim, regardless of whether the child is living with a parent, guardian or other caretaker.

SECTION 12. Clause (3) of the second paragraph of subsection (k) of said section 51B of said chapter 119, as so appearing, is hereby amended by inserting after the words "chapter 272" the following words:- or is a sexually exploited child or a child who is otherwise a human trafficking victim.

SECTION 13. Section 51D of said chapter 119, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

For 51A reports specifically involving a sexually exploited child or a child who is otherwise a human trafficking victim, the multi-disciplinary service team may consist of a team of professionals trained or otherwise experienced and qualified to assess the needs of sexually exploited children or children who are otherwise human trafficking victims including, but not limited to, a police officer, as defined by section 1 of chapter 90C, or other person designated by a police chief, as defined in said section 1 of said chapter 90C, an employee of the department of children and families, a representative of the appropriate district attorney, a social service provider, a medical professional or a mental health professional.

SECTION 14. Said section 51D of said chapter 119, as so appearing, is hereby further amended by inserting after the fifth paragraph the following paragraph:-

For 51B reports specifically involving a sexually exploited child, the purpose of the multi-disciplinary service team shall be to determine whether the child has been sexually exploited or is otherwise a human trafficking victim and to recommend a plan for services to the department that may include, but shall not be limited to, shelter or placement, mental health and medical care needs and other social services.

SECTION 15. Section 55B of said chapter 119, as so appearing, is hereby amended by inserting after the figure "23B", in line 17, the following words:- or section 50.

SECTION 16. Section 58 of said chapter 119, as so appearing, is hereby amended by striking out, in line 13, the words "or section 23B" and inserting in place thereof the following words:- , section 23B or section 50.

SECTION 17. Chapter 233 of the General Laws is hereby amended by inserting after section 20L the

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following section:-

Section 20M. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Confidential communication", information transmitted in confidence by and between a victim and a victim's caseworker by a means which does not disclose the information to a person other than a person present for the benefit of the victim, or to those to whom disclosure of such information is reasonably necessary to the counseling and assisting of such victim. The term confidential communication shall include all information received by a victim's caseworker which arises out of and in the course of such counseling and assisting including, but not limited to, reports, records, working papers or memoranda.

"Human trafficking victim" or "victim", a person who is subjected to the conduct prohibited under sections 50 or 51 of chapter 265.

"Human trafficking victims' caseworker," a person who is employed by or volunteers with a program serving human trafficking victims, who has undergone a minimum of 25 hours of training and who reports to and is under the direct control and supervision of a direct service supervisor of a human trafficking victim program, and whose primary purpose is the rendering of advice, counseling or assistance to human trafficking victims.

"Human trafficking victims' program", any refuge, shelter, office, safe house, institution or center established for the purpose of offering assistance to human trafficking victims through crisis intervention, medical, legal or support counseling.

(b) A human trafficking victims' caseworker shall not disclose any confidential communication without the prior written consent of the victim, or the victim's guardian in the case of a child, except as hereinafter provided. Such confidential communication shall not be subject to discovery in any civil, legislative or administrative proceeding without the prior written consent of the victim, or victim's guardian in the case of a child, to whom such confidential communication relates. In criminal actions such confidential communication shall be subject to discovery and shall be admissible as evidence but only to the extent of information contained therein which is exculpatory in relation to the defendant; provided, however, that the court shall first examine such confidential communication and shall determine whether or not such exculpatory information is contained in the communication before allowing such discovery or the introduction of such evidence.

(c) During the initial meeting between a caseworker and victim, the caseworker shall inform the human trafficking victim and any guardian thereof of the confidentiality of communications between a caseworker and victim and the limitations thereto.

SECTION 18. Section 21B of said chapter 233, as appearing in the 2010 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Evidence of the reputation of a victim's sexual conduct shall not be admissible in an investigation or proceeding before a grand jury or a court of the commonwealth for a violation of sections 13B, 13B ½, 13B ¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B, 50 or 51 of chapter 265.

SECTION 19. Section 4C of chapter 260 of the General Laws, as so appearing, is hereby amended by

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striking out, in line 12, the words “or twenty-four B” and inserting in place thereof the following words:- , 24B or subsection (b) of section 50.

SECTION 20. Said chapter 260 of the General Laws is hereby further amended by inserting after section 4C the following section:-

Section 4D. (a) A victim of trafficking of persons for sexual servitude under section 50 of chapter 265 or of trafficking of persons for forced services under section 51 of said chapter 265 may bring a civil action for trafficking of persons for forced labor or services or sexual servitude. The court may award actual damages, compensatory damages, punitive damages, injunctive relief or any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages may be awarded on proof of actual damages if the defendant's acts were willful and malicious.

(b) A civil action for trafficking of persons for forced labor or services or sexual servitude shall be commenced within 3 years of the date on which the human trafficking victim was freed from human trafficking or, if the victim was a child during the commission of the offense, within 3 years after the date the plaintiff attains the age of 18.

(c) If a person entitled to sue is under a disability at the time the cause of action accrues, such that it is impossible or impracticable for such person to bring an action, the time during which the plaintiff is under a disability shall toll the statute until the disability ceases.

(d) In the event that a child plaintiff is under a disability, the failure of the child's guardian ad litem to bring a plaintiff's action within the applicable limitation period shall not prejudice the plaintiff's right to do so after his disability ceases.

(e) A defendant shall be estopped from asserting a defense of the statute of limitations if the expiration of the statute is due to the defendant inducing the plaintiff to delay the filing of the action, preventing the plaintiff from filing the action or threats made by the defendant that caused duress upon the plaintiff.

(f) Any legal guardian, family member, representative of the human trafficking victim or court appointee may represent the human trafficking victim's rights, in the event the human trafficking victim is deceased or otherwise unable to represent his own interests in court.

SECTION 21. Section 24C of chapter 265 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word “sixty-five”, in line 7 , the following words:- , or an arrest, investigation or complaint for trafficking of persons under section 50 of said chapter 265.

SECTION 22. Said chapter 265 is hereby further amended by inserting after section 26C the following section:-

Section 26D. (a) As used in this section, the term "entice" shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite.

(b) As used in this section, the term “electronic communication” shall include, but not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.

(c) Whoever, by electronic communication, knowingly entices a child under the age of 18 years, to

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engage in prostitution in violation of section 50 or section 53A of chapter 272, human trafficking in violation of section 50, 51, 52 or 53 or commercial sexual activity as defined in section 49, or attempts to do so, shall be punished by imprisonment in a house of correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine of not less than \$2,500, or by both such fine and imprisonment.

(d) Whoever, after having been convicted of, or adjudicated delinquent by reason of a violation of this section, commits a second or subsequent such violation, shall be punished by imprisonment in the state prison for not less than 5 years and by a fine of not less than \$10,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this subsection be eligible for probation, parole, work release or furlough or receive any deduction from the sentence for good conduct until that person has served 5 years of such sentence.

SECTION 23. Said chapter 265 of the General Laws is hereby amended by adding after section 48 the following 9 sections:-

Section 49. As used in sections 50 to 51, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Commercial sexual activity”, any sexual act on account of which anything of value is given, promised to or received by any person.

“Financial harm”, a detrimental position in relation to wealth, property or other monetary benefits that occurs as a result of another person’s illegal act including, but not limited to, extortion under by section 25, a violation of section 49 of chapter 271 or illegal employment contracts.

"Forced services", services performed or provided by a person that are obtained or maintained by another person who: (i) causes or threatens to cause serious harm to any person; (ii) physically restrains or threatens to physically restrain another person; (iii) abuses or threatens to abuse the law or legal process; (iv) knowingly destroys, conceals, removes, confiscates or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; (v) engages in extortion under section 25; or (vi) causes or threatens to cause financial harm to any person.

"Services", acts performed by a person under the supervision of or for the benefit of another including, but not limited to, commercial sexual activity and sexually-explicit performances.

“Sexually-explicit performance”, an unlawful live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

Section 50. (a) Whoever knowingly: (i) subjects, or attempts to subject, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of chapter 272, or causes a person to engage in commercial sexual activity, a sexually-explicit performance or the production of unlawful pornography in violation of said chapter 272; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of the crime of trafficking of persons for sexual servitude and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000. Such sentence shall not be

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reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for sexual servitude upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence.

(c) A business entity that commits trafficking of persons for sexual servitude shall be punished by a fine of not more than \$1,000,000.

(d) A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred, where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venturer in trafficking of persons for sexual servitude shall be civilly liable for an offense under this section.

Section 51. (a) Whoever knowingly: (i) subjects, or attempts to subject, another person to forced services, or recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that such person will be subjected to forced services; or (ii) benefits, financially or by receiving anything of value, as a result of a violation of clause (i), shall be guilty of trafficking of persons for forced services and shall be punished by imprisonment in the state prison for not less than 5 years but not more than 20 years and by a fine of not more than \$25,000. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence. No prosecution commenced under this section shall be continued without a finding or placed on file.

(b) Whoever commits the crime of trafficking of persons for forced services upon a person under 18 years of age shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 5 years. No person convicted under this subsection shall be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 5 years of such sentence.

(c) A business entity that commits trafficking of persons for forced labor services shall be punished by a fine of not more than \$1,000,000.

(d) A victim of subsection (a) may bring an action in tort in the superior court in any county wherein a violation of subsection (a) occurred, where the plaintiff resides or where the defendant resides or has a place of business. Any business entity that knowingly aids or is a joint venturer in trafficking of person for forced labor or services shall be civilly liable for an offense under this section.

Section 52. (a) Whoever, after having been convicted of or adjudicated delinquent by reason of a violation of section 50 or 51, commits a second or subsequent violation of either section 50 or 51, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. Such sentence shall not be reduced to less than 10 years, or suspended, nor shall any person

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convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. No prosecutions commenced under this section shall be continued without a finding or placed on file.

(b) In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of correction or the department of correction, shall be prima facie evidence that the defendant before the court has been convicted previously by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's prior conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

Section 53. (a) Whoever: (i) recruits, entices, harbors, transports, delivers or obtains by any means, another person, intending or knowing that an organ, tissue or other body part of such person will be removed for sale, against such person's will; or (ii) knowingly receives anything of value, directly or indirectly as a result of a violation of clause (i) shall be guilty of organ trafficking and punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than \$50,000, or both.

(b) Whoever commits the crime of organ trafficking upon a person under 18 years of age shall be punished by imprisonment in the state prison for 5 years. Such sentence shall not be reduced to less than 5 years, or suspended, nor shall any person convicted under this subsection be eligible for probation, parole, work release, or furlough or receive any deduction from such sentence for good conduct until having served 5 years of such sentence.

Section 54. The court shall transmit fines collected pursuant to sections 50 and 51 to the state treasurer. The treasurer shall deposit such fines into the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10.

Section 55. All monies furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, and all monies used or intended to be used to facilitate any violation of section 50 or 51 shall be subject to forfeiture to the commonwealth and shall be made available by the court to any victim ordered restitution by the court pursuant to section 3 of chapter 258B.

Section 56. (a) The following property shall be subject to forfeiture to the commonwealth and all property rights therein shall be in the commonwealth:

- (i) all conveyances, including aircraft, vehicles or vessels used, or intended for use, to transport, conceal or otherwise facilitate a violation of section 50 or 51;
- (ii) all books, records and research, including microfilm, tapes and data which are used, or intended for use, in violation of section 50 or 51;
- (iii) all negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, all proceeds traceable to such an exchange, including real estate and any other thing of value, and all negotiable instruments

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and securities used or intended to be used to facilitate any violation of section 50 or 51; and (iv) all real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements thereto, which is used in any manner or part to commit or to facilitate any violation of section 50 or 51.

No forfeiture under this section shall extinguish a perfected security interest held by a creditor in a conveyance or in any real property at the time of the filing of the forfeiture action.

(b) Property subject to forfeiture pursuant to clauses (i) to (iv), inclusive, of subsection (a) shall, upon motion of the attorney general or district attorney, be declared forfeit by any court having jurisdiction over said property or having final jurisdiction over any related criminal proceeding brought under this section.

(c) The court shall order forfeiture of all conveyances and real property subject to forfeiture under this section, except as follows:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of section 50 or 51;

(ii) no conveyance shall be forfeited by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, of the commonwealth or of any state; and

(iii) no conveyance or real property shall be subject to forfeiture unless the owner thereof knew or should have known that such conveyance or real property was used in violation of section 50 or 51.

(d) A district attorney or the attorney general may petition the superior court in the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of a conveyance, real property or other things of value subject to forfeiture under subsection (a). Such petition shall be filed in the court having jurisdiction over the conveyance, real property or other things of value or having final jurisdiction over any related criminal proceeding brought under section 50 or 51. In all such suits in which the property is claimed by any person, other than the commonwealth, the commonwealth shall have the burden of proving to the court the existence of probable cause to institute the action, and any such claimant shall then have the burden of proving that the property is not forfeitable pursuant to subsection (c). The owner of the conveyance or real property, or other person claiming thereunder, shall have the burden of proof as to all exceptions set forth in subsections (c) and (j). The court shall order the commonwealth to give notice by certified or registered mail to the owner of the conveyance, real property or other things of value and to such other persons as appear to have an interest therein, and the court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. Upon the motion of the owner of the conveyance, real property or other things of value, the court may continue the hearing on the petition pending the outcome of any criminal trial related to the violation of sections 50 or 51. At such hearing, the court shall hear evidence and make conclusions of law, and shall thereupon issue a final order from which the parties shall have a right of appeal. In all such suits in which a final order results in a forfeiture, the final order shall provide for disposition of the conveyance, real property or any other thing of value by the commonwealth or any subdivision thereof

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in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, or sale at public auction or by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice and the balance thereof shall be distributed as further provided in this section.

(e) The final order of the court shall be deposited into the Victims of Human Trafficking Trust Fund established in section 66A of chapter 10.

(f) Any officer, department, or agency having custody of any property subject to forfeiture under this section or having disposed of the property shall keep and maintain full and complete records showing from whom it received the property, under what authority it held or received or disposed of said property, to whom it delivered the property, the date and manner of disposition of the property, and the exact kinds, quantities and forms of the property. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state human trafficking laws. Persons making final disposition of the property under court order shall report, under oath, to the court the exact circumstances of such disposition.

(g) During the pendency of the proceedings, the court may issue at the request of the commonwealth ex parte any preliminary order or process as is necessary to seize or secure the property for which forfeiture is sought and to provide for its custody including, but not limited to: an order that the commonwealth remove the property if possible and safeguard it in a secure location in a reasonable fashion; that monies be deposited in an interest-bearing escrow account; and that a substitute custodian be appointed to manage such property. Property taken or detained under this section shall not be repleviable, but once seized shall be deemed to be lawfully in the custody of the commonwealth pending forfeiture, subject only to the orders and decrees of the court having jurisdiction thereof. Process for seizure of the property shall issue only upon a showing of probable cause, and the application therefore and the issuance, execution and return thereof shall be subject to chapter 276, so far as applicable.

(h) A district attorney or the attorney general may refer any real property, and any furnishings, equipment and related personal property located therein, for which seizure is sought, to the division of capital asset management and maintenance office of seized property management, established under section 47 of chapter 94C. The office of seized property management shall preserve and manage the property in a reasonable fashion and dispose of the property upon a judgment ordering forfeiture, and to enter into contracts to preserve, manage and dispose of the property. The office of seized property management may receive initial funding from the special law enforcement trust funds of the attorney general and each district attorney under paragraph (f) and shall subsequently be funded by a portion of the proceeds of each sale of such managed property to the extent provided as payment of reasonable expenses in paragraph (d).

(i) The owner of any real property which is the principal domicile of the immediate family of the owner and which is subject to forfeiture under this section may file a petition for homestead exemption with the court having jurisdiction over such forfeiture. The court may, in its discretion, allow the petition exempting from forfeiture an amount allowed under section 1 of chapter 188. The value of the balance of the principal domicile, if any, shall be forfeited as provided in this section. Such homestead

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exemption may be acquired on only 1 principal domicile for the benefit of the immediate family of the owner.

(j) A forfeiture proceeding affecting the title to real property or the use and occupation thereof or the buildings thereon shall not have any effect except against the parties thereto and persons having actual notice thereof, until a memorandum containing the names of the parties to such proceeding, the name of the town wherein the affected real property lies, and a description of the real property sufficiently accurate for identification is recorded in the registry of deeds for the county or district wherein the real property lies. At any time after a judgment on the merits, or after the discontinuance, dismissal or other final disposition is recorded by the court having jurisdiction over such matter, the clerk of such court shall issue a certificate of the fact of such judgment, discontinuance, dismissal or other final disposition, and such certificate shall be recorded in the registry in which the original memorandum recorded pursuant to this section was filed.

Section 57. In any prosecution or juvenile delinquency proceeding of a person who is a human trafficking victim, as defined by section 20M of chapter 233, it shall be an affirmative defense to charges of engaging in common night walking or common streetwalking in violation of section 53 of chapter 272 and to a violation of section 53A of said chapter 272 that, while a human trafficking victim, such person was under duress or coerced into committing the offenses for which such person is being prosecuted or against whom juvenile delinquency proceedings have commenced.

SECTION 24. Chapter 272 of the General Laws is hereby amended by striking out section 8, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 8. Whoever solicits or receives compensation for soliciting for a prostitute shall be punished by imprisonment in a house of correction for not more than 2 and one-half years, or by a fine of not less than \$1,000 and not more than \$5,000 or by both such imprisonment and fine.

SECTION 25. Said chapter 272 is hereby further amended by striking out section 53A, as so appearing, and inserting in place thereof the following section:-

Section 53A. (a) Whoever engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, shall be punished by imprisonment in the house of correction for not more than 1 year or by a fine of not more than \$500, or by both such imprisonment and fine, whether such sexual conduct occurs or not.

(b) Whoever pays, agrees to pay or offers to pay another person to engage in sexual conduct, or to agree to engage in sexual conduct with another person, shall be punished by imprisonment in the house of correction for not more than 2 and one-half years or by a fine of not less than \$1,000 and not more than \$5,000, or by both such imprisonment and fine, whether such sexual conduct occurs or not.

(c) Whoever pays, agrees to pay or offers to pay any person with the intent to engage in sexual conduct with a child under the age of 18, or whoever is paid, agrees to pay or agrees that a third person be paid in return for aiding a person who intends to engage in sexual conduct with a child under the age of 18, shall be punished by imprisonment in the state prison for not more than 10 years, or in the house of correction for not more than 2 and one-half years and by a fine of not less than

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\$3,000 and not more than \$10,000, or by both such imprisonment and fine, whether such sexual conduct occurs or not; provided, however, that a prosecution commenced under this section shall not be continued without a finding or placed on file.

SECTION 26. Section 87 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words “or twenty-four B” and inserting in place thereof the following words:- , 24B or subsection (b) of section 50.

SECTION 27. Section 63 of chapter 277 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words “or 24B,” and inserting in place thereof the following words:- , 24B or subsection (b) of section 50.

SECTION 28. Said section 63 of said chapter 277, as so appearing, is hereby further amended by striking out, in line 12, the words “and 24” and inserting in place thereof the following words:- , 24 or subsection (a) of section 50.

SECTION 29. Said section 63 of said chapter 277, as so appearing, is hereby further amended by striking out, in line 25, the words “or 26A” and inserting in place thereof the following words:- 26A or 50.

SECTION 30. Section 16D of chapter 278 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “or twenty-four B” and inserting in place thereof the following words:- , 24B or 50.

SECTION 31. (a) There shall be an interagency task force to address all aspects of human trafficking, including sex trafficking and labor trafficking. The task force shall consist of the attorney general or the attorney general’s designee, who shall serve as the chair, the colonel of state police or the colonel’s designee, a representative of the Massachusetts police chiefs association, a representative of the Massachusetts district attorneys’ association, the commissioner of the Boston police department or the commissioner’s designee, the director of the division of professional licensure or the director’s designee, a representative of the Massachusetts office for victim assistance, the director of the department of labor standards or the director’s designee, the commissioner of the department of children and families or the commissioner’s designee, the secretary of the executive office of public safety or the secretary’s designee, the commissioner of the office of probation or the commissioner’s designee; a representative of a group dedicated to immigrant and refugee issues appointed by the governor; a representative of a group dedicated to the prevention of violence against women appointed by the governor; a representative of an entity dedicated to prevention of and intervention in the trafficking of children appointed by the governor; a survivor of human trafficking appointed by the governor; a human trafficking attorney appointed by the governor; a human trafficking caseworker appointed by the governor; a mental health professional appointed by the governor and a university researcher with a background in human trafficking appointed by the governor.

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(b) Subject to appropriation, the task force shall:

- (i) coordinate the collection and sharing of human trafficking data among government agencies; provided, however, that such data collection shall respect the privacy of victims of human trafficking; coordinate strategies and make recommendations for law enforcement to share information for the purposes of detecting individuals and groups engaged in human trafficking;
- (ii) review and recommend policies and procedures to enable state government to work with non-governmental organizations and other elements of civil society to prevent human trafficking and to protect and provide assistance to victims of trafficking;
- (iii) identify and review the existing services and facilities that meet the needs of victims of human trafficking including, but not limited to, health and mental health services, housing, education and job training, legal services and victim compensation;
- (iv) evaluate approaches to increase public awareness of human trafficking and offer recommendations for programs and educational and training opportunities for law enforcement and social service providers including, but not limited to, methods used to identify human trafficking victims including preliminary interviewing and questioning techniques, methods of protecting the special needs of women and child human trafficking victims, developments in state and federal laws regarding human trafficking and methods to increase effective collaboration between state and local agencies, law enforcement, social service providers and non-governmental organizations;
- (v) examine ways to curtail the demand side of trafficking such as self sustaining first offender diversion programs;
- (vi) examine the costs associated with establishing a safe house pilot program for adult and child victims of human trafficking and identify public and private funding sources that may be used to develop and implement a safe house pilot program;
- (vii) examine cost-effective notices, announcements or advertisements that may be displayed in public places, such as airports, train stations, bus stations, hotels, massage parlors, spas, strip clubs and other sexually-oriented businesses providing information relating to services for human trafficking victims;
- (viii) recommend strategy and relevant methodologies for training providers in health and human services in the recognition of signs and circumstances indicating that an individual is the victim of human trafficking and the appropriate steps to report the individual to the appropriate law enforcement personnel or agencies;
- (ix) recommend ways to develop and promulgate educational materials and health curricula that may be used by school administrators and educators to identify human trafficking victims and the appropriate actions to be undertaken when such victims are identified and to educate school officials as to the scope and magnitude of human trafficking in the nation and the commonwealth including, but not limited to, how to prevent it and developing a parent guide and teacher training material on internet safety and methods of preventing the exploitation of minors over the internet; and
- (x) submit a report of its findings and recommendations to the clerks of the senate and the house of representatives who shall forward the report to the chairs of the joint committee on the judiciary not later than 18 months after the effective date of this act. The task force shall determine if subsequent reports are necessary in order to properly address human trafficking.

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Approved, November 21, 2011.



Acts
2011

CHAPTER 199 AN ACT RELATIVE TO GENDER IDENTITY.

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

SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following clause:-

Fifty-ninth, "Gender identity" shall mean 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. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.

SECTION 2. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby amended by inserting after the word "gender", in line 12, the following words:- , gender identity.

SECTION 3. Section 89 of chapter 71 of the General Laws, as so appearing, is hereby amended by inserting after the word "sex", in lines 91 and 320, in each instance, the following words:- , gender identity.

SECTION 4. Section 5 of chapter 76 of the General Laws, as so appearing, is hereby amended by inserting after the word "sex", in line 10, the following words:- , gender identity.

SECTION 5. Section 12B of said chapter 76, as so appearing, is hereby amended by inserting after the word "sex", in line 185, the following words:- , gender identity.

SECTION 6. Section 3 of chapter 151B of the General Laws, as so appearing, is hereby amended by inserting after the word "sex", in lines 17 and 61, in each instance, the following words:- , gender identity.

SECTION 7. Section 4 of said chapter 151B, as so appearing, is hereby amended by inserting after the word "sex", in lines 3, 69, 82, 87, 96, 103, 136, 163, 169, 179, 226, 233, 243, 339, 349, 353, 359, 485, 495, 505, 661 and 670, in each instance, the following words:- , gender identity.

SECTION 8. Section 39 of chapter 265 of the General Laws, as so appearing, is hereby amended by

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inserting after the words “sexual orientation”, in line 4, the following words:- , gender identity.

SECTION 9. This act shall take effect on July 1, 2012.

Approved, November 23, 2011.



Acts
2010
CHAPTER 201 AN ACT RELATIVE TO THE PREPARATION OF CERTAIN BILINGUAL BALLOTS IN THE CITY OF BOSTON.

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

SECTION 1. As used in this act, the following words shall have the following meanings unless the context requires otherwise:-

“Board”, the board of election commissioners of the city of Boston.

“Chinese surname”, a surname which appears on the Lauderdale and Kestenbaum list of Chinese surnames.

“City”, the city of Boston.

“Election”, the choice by the voters of any public officer and to the taking of a vote upon any question by law submitted to the voters.

“Transliteration”, the printing of relevant Chinese characters to represent the phonetic equivalent of the syllables of an English name or a name in a language that is not traditionally written using Chinese characters.

“State election”, an election at which a national, state or county officer or a regional district school committee member elected districtwide is to be chosen by the voters, whether for a full term or for the filling of a vacancy.

“Vietnamese surname”, a surname which appears on the Lauderdale and Kestenbaum list of Vietnamese surnames.

SECTION 2. Notwithstanding section 40 of chapter 54 of the General Laws or any other general or special law to the contrary, in federal and state elections, the state secretary shall prepare bilingual ballots in English and Chinese and in English and Vietnamese in addition to any other bilingual ballots required by law in the designated polling places within the city as required by section 4.

SECTION 3. Notwithstanding section 58 of the charter of the city or any other general or special law to the contrary, in all city preliminary or final elections the board shall prepare bilingual ballots in English and Chinese and in English and Vietnamese in addition to any other bilingual ballots required by law in

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the designated polling places within the city as required by section 4.

SECTION 4. Bilingual ballots in English and Chinese shall be provided in each polling place in the city where there are at least 35 registered voters with Chinese surnames. Bilingual ballots in English and Vietnamese shall be provided in each polling place in the city where there are at least 30 registered voters with Vietnamese surnames.

At least 1 bilingual ballot in English and Chinese per registered voter with a Chinese surname shall be provided in each designated polling place. At least 1 bilingual ballot in English and Vietnamese per registered voter with a Vietnamese surname shall be provided in each designated polling place. In any district, county, state or federal primary or general election the state secretary may provide additional sets of bilingual ballots for any polling place in the city if the secretary deems it necessary. In any city preliminary or final elections, the board may provide additional sets of bilingual ballots for any polling place in the city if the board deems it necessary.

SECTION 5. The board in any city preliminary or final elections and the state secretary in any federal or state election shall provide for the transliteration of all candidates' names for bilingual ballots in English and Chinese. Each candidate shall be provided with a written copy of the proposed transliteration of that candidate's name. Within 7 days after receiving the proposed transliteration of the candidate's name, the candidate may provide written notice to the board or the state secretary, as the case may be, of any modification of the proposed transliteration of a candidate's own name or decline to have the candidate's own name transliterated on the ballot. The transliteration shall be subject to final approval by the board or the state secretary, as the case may be. The board or state secretary shall provide public notice of transliterated names as soon as practicable.

SECTION 6. The city shall record the number of bilingual ballots in English and Chinese and in English and Vietnamese that are printed, requested or used in all elections held in the city.

SECTION 7. This act shall take effect on January 1, 2011.

SECTION 8. This act shall expire on December 31, 2013.

SECTION 9. Notwithstanding any general or special law to the contrary, any costs resulting from implementation of this act shall be borne by the city of Boston. The state secretary shall enter into an agreement with the city of Boston regarding such costs before such implementation.

Approved July 31, 2010



Acts
2010
CHAPTER 239 AN ACT ELIMINATING THE WORD "RETARDATION" FROM THE GENERAL LAWS.

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

SECTION 1. Said section 17 of said chapter 10, as so appearing, is hereby further amended by striking out, in lines 18 and 19 and line 22, the words "mentally retarded persons" and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 2. Section 13 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words "mental retardation" and inserting in place thereof the following words:- intellectual disabilities.

SECTION 3. Section 21 of chapter 19 of the General Laws, as so appearing, is hereby amended by striking out, in line 40, the words "mentally retarded individuals" and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 4. Said section 21 of said chapter 19, as so appearing, is hereby further amended by striking out, in lines 46 and 47, the words "mentally retarded" and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 5. Said section 21 of said chapter 19, as so appearing, is hereby further amended by striking out, in line 59, the words "mentally retarded persons" and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 6. Section 1 of chapter 19B of the General Laws, as so appearing, is hereby amended by striking out, in lines 25, 26 and 27, 33, 42, 47 and 48, 49 and 51, the words "mental retardation" and inserting in place thereof, in each instance, the following words:- intellectual disabilities.

SECTION 7. Said section 1 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 14, the words "mentally retarded citizens of the commonwealth" and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 8. Said section 1 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 16 and 21, the words "mentally retarded persons" and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 9. Section 10 of said chapter 19B, as so appearing, is hereby amended by striking out, in

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line 2, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 10. Section 12 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 2, 7 and 8, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual disability.

SECTION 11. Section 13 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 3, 8 and 9, 13, 27, 31, 32 and 33, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual disability.

SECTION 12. Section 15 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 5 and 6, 9 and 39 and 40, the words “who are mentally retarded” and inserting in place thereof, in each instance, the following words:- with an intellectual disability.

SECTION 13. Section 16 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 14. Section 18 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 40, the words “mentally retarded individuals” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 15. Said section 18 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 46, the words “mentally retarded” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 16. Said section 18 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 59, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 17. Section 1 of chapter 19C of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “mentally retarded, as defined by section one of chapter one hundred and twenty-three” and inserting in place thereof the following words:- a person with an intellectual disability as defined by section 1 of chapter 123B.

SECTION 18. Section 4 of said chapter 19C, as so appearing, is hereby amended by striking out, in line 28, the words “mentally retarded” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 19. Section 3 of chapter 19D of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “the mentally retarded” and inserting in place thereof the following

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words:- persons with an intellectual disability.

SECTION 20. Section 1 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Mentally retarded person”.

SECTION 21. Said section 1 of said chapter 31, as so appearing, is hereby further amended by inserting, after the definition of “Permanent employee” the following definition:- “Person with an intellectual disability”, a person certified as having an intellectual disability by the Massachusetts rehabilitation commission.

SECTION 22. Section 47 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 7, 13 and 14, 27 and 28 and 33, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 23. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 10, the words “is mentally retarded” and inserting in place thereof the following words:- has an intellectual disability.

SECTION 24. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 16, the words “retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 25. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 24 and 25, the words “mentally retarded person’s” and inserting in place thereof the following words:- person with an intellectual disability’s.

SECTION 26. Section 4E of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 27. Section 63A of said chapter 111, as so appearing, is hereby amended by striking out, in line 4, the words “mentally retarded” and inserting in place thereof the following words:- or suffering from an intellectual disability.

SECTION 28. Section 67E of said chapter 111, as so appearing, is hereby amended by striking out, in lines 43 and 44 and 45, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 29. Section 71 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 6, 12, 15, 18, 135 and 136, 139 and 140, 159, 211, 232 and 242, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an

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intellectual disability.

SECTION 30. Said section 71 of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 162 and 163, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 31. Section 72 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 7 and 8, 13 and 14, 17, 20 and 21, 25, 27, 36 and 37 and 41, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 32. Said section 72 of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 31 and 32, words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 33. Section 73 of said chapter 111, as so appearing, is hereby amended by striking out, in line 4, the words “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 34. Section 27 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out the definition of “Intermediate care facility for the mentally retarded or ICF/MR,” and inserting in place thereof the following definition:-

“Intermediate care facility for persons with an intellectual disability or ICF/PWID”, a privately or publicly operated intermediate care facility for persons with an intellectual disability.

SECTION 35. Said section 27 of said chapter 118G as so appearing, is hereby further amended by striking out, in lines 11, 13 and 31, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 36. Said section 27 of said chapter 118G, as so appearing, is hereby further amended by striking out, in lines 8, 12, 14 and 32, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 37. Said section 27 of said chapter 118G is hereby further amended by striking out, in lines 28, 39, 41, 47, 49 and 53, the word “ICF/MR” and inserting in place thereof, in each instance, the following word:- ICF/PWID .

SECTION 38. Section 29 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1, 9, 14, 22 and 29, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 39. Section 1 of chapter 123B of the General Laws, as so appearing, is hereby amended by

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striking out, in line 10, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 40. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by striking out the definition of “Mentally retarded person” .

SECTION 41. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by inserting after the definition of “Independent funds” the following definition:-

“Person with an intellectual disability”, a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the department, is substantially limited in the person’s ability to learn or adapt, as judged by established standards available for the evaluation of a person’s ability to function in the community; provided, however, that a person with an intellectual disability may be considered mentally ill; provided further, that no person with an intellectual disability shall be considered mentally ill solely by virtue of the person’s intellectual disability.

SECTION 42. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 27, the words “his mental retardation” and inserting in place thereof the following words:- their intellectual disability.

SECTION 43. Section 2 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 5, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 44. Said section 2 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 8, the word “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 45. Said section 2 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 11, the word “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 46. Section 3 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 2 and 3, 3 and 4, 7 and 8, 10, 25 and 26, 36 and 48 and 49, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 47. Said section 3 of said chapter 123B, as so appearing, is hereby further amended by striking out, in lines 11 and 47, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

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SECTION 48. Said section 3 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 16, the word “retarded” and inserting in place thereof the following words:- intellectually disabled.

SECTION 49. Section 4 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 23 and 30, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 50. Section 5 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 1, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 51. Section 6 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 3, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 52. Section 8 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 1, 5 and 113, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 53. Said section 8 of said chapter 123B, as so appearing, is hereby further amended by striking out, in lines 105 and 106 and 117 and 118, the words “mentally retarded persons” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 54. Section 9 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 1, 4 and 10, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 55. Section 12 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 12 and 19, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 56. Section 16 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 17 and 26, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 57. Section 11 of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 38, the words “mentally retarded” and inserting in place thereof the following words:- has an intellectual disability.

SECTION 58. Section 30B of chapter 149 of the General Laws, as so appearing, is hereby amended

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by striking out, in line 14, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 59. Section 193T of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 60. Section 1-404 of chapter 190B of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 12, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 61. Section 5-303 of said chapter 190B, as so appearing, is hereby amended by striking out, in lines 18, 52, and 75, the words “be mentally retarded” and inserting in place thereof, in each instance, the following words:- have an intellectual disability.

SECTION 62. Said section 5-303 of said chapter 190B, as so appearing, is hereby further amended by striking out, in lines 77 and 78, the words “of mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 63. Section 1B of chapter 192 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 64. Section 7 of chapter 206 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10 and 12, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 65. Said section 7 of said chapter 206, as so appearing, is hereby further amended by striking out, in line 13, the words “or mentally retarded person” and inserting in place thereof the following words:- person or a person with an intellectual disability.

SECTION 66. Section 24 of said chapter 206, as so appearing, is hereby amended by striking out, in line 13, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 67. Section 34E of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out, in lines 35, 43 and 50, the word “retardation” and inserting in place thereof, in each instance, the following words:- intellectual disability.

SECTION 68. Section 23E of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4, 6, 13 and 14, 15, 17, 21, 28 and 29, 50 and 51, 52 and 53 and 66, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an

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intellectual disability.

SECTION 69. Said section 23E of said chapter 233, as so appearing, is hereby further amended by striking out, in line 7, the words “Mental retardation” and inserting in place thereof the following words:- Intellectual disability.

SECTION 70. Said section 23E of said chapter 233, as so appearing, is hereby further amended by striking out, in line 75, the words “mental retardation” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 71. Section 13F of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2, 11, 12 and 13 and 14, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 72. Said section 13F of said chapter 265, as so appearing, is hereby further amended by striking out, in lines 2 and 14, the words “be mentally retarded” and inserting in place thereof, in each instance, the following words:- have an intellectual disability.

Approved August 4, 2010
