



Women's Bar Association of Massachusetts

Women's Bar Association of
Massachusetts
27 School Street, Suite 500
Boston, MA 02108



Massachusetts Chapter of the National
Organization for Women
15 Court Square, Suite 900
Boston, MA, 02108

February 24, 2016

Massachusetts State House
24 Beacon St
Boston, MA 01233

Dear Legislator,

The Women's Bar Association (WBA) of Massachusetts and the Massachusetts Chapter of the National Organization of Women (Mass NOW), as members of the Freedom Massachusetts campaign, write to you on behalf of over 15 women's organizations in Massachusetts to express our strong support for SB 735 and HB 1577, An Act Relative to Transgender Anti-Discrimination, sponsored by Senator Sonia Chang-Diaz, Representatives Byron Rushing and Denise Provost. We, as the organizations that represent thousands of people who identify as women throughout our Commonwealth, want to be clear about two things: 1) that transgender women are not men – they are women; and 2) transgender women will benefit greatly from the basic protections from discrimination afforded them by SB 735 and HB 1577, while hurting no one.

WBA is a professional association of women attorneys, judges and law students founded in 1978, with over 1500 members across the Commonwealth. At the WBA, our purpose is to achieve the full and equal participation of women in the legal profession and in a just society, and we support fairness and equality under the law for everyone.

Mass NOW is a statewide organization that aims to advance intersectional justice for people who identify as women and girls in the Commonwealth. Since 1968, Mass NOW has worked to ensure that women's issues, both locally and nationally, are advocated for. With over 250 active volunteers, the organization is heavily engaged in legislative, educational, and political work.

The WBA, Mass NOW and numerous women's organizations have advocated for legislation signed into law such as Chapter 199 of the Acts of 2011, which added "gender identity" as a protected characteristic to the Commonwealth's employment, housing, credit, and public education laws and to its hate crime laws. However, missing from the final legislation were key non-discrimination protections for transgender people in public spaces, known in legal terms as "public accommodations" under our state law.

The ability to utilize public accommodations without discrimination, such as coffee shops, the MBTA, and hospitals, is a basic element of daily citizenship that most of us take for granted. For transgender people, the experience is starkly different. Nearly 65% reported in a recent survey that they had experienced discrimination in these spaces. Our Commonwealth can do better, and we urge you to cure this problem.

Opponents of this legislation have distorted its purpose and stoked illusions of fear about its impact. We write on behalf of the thousands of women that we represent, to clarify once and for all, that this bill will not make bathrooms and locker rooms unsafe for women and we are not in fear of it. There is nothing in this legislation that facilitates indecent or unsafe behavior in bathrooms. The 2011 law explicitly prohibits people from asserting gender identity for any improper purpose. Also, nothing in this bill weakens current laws against predatory or invasive behavior and indecent assault, and harassment will remain illegal in all public spaces. The bill does not give cover to anyone – transgender or otherwise – to enter bathrooms and engage in inappropriate or illegal behavior. This is why eighteen other states and D.C. already have laws

allowing transgender people to use sex-segregated facilities according to the gender with which they identify and none of these states have reported increased crime due to their respective laws.

Furthermore, transgender women are not men, they are women. They use bathrooms and locker rooms for the same reasons everyone does and, when they do, they desire the same privacy, decency and safety as everyone else. Assertions that a man could not just “wake up one day” and claim to be a woman, put on a skirt and then access women’s facilities are designed to instigate fear about transgender people but actually have no relationship to what it means to be transgender. Gender transition is a long-term and deliberate process that involves the medical establishment and the government. Our current law defines gender identity for purposes of nondiscrimination protections as “sincerely held” and “part of a person’s core identity” that may be evidenced by reference to medical history, care or treatment, or by being asserted in a “consistent and uniform” manner.

As between these facts, notably the violence, persecution and violations of basic human rights these women face, and the baseless illusions of fears proposed by opponents, we respectfully urge you to side with the facts.

Forcing a transgender person to use a facility that does not match their gender identity makes them extremely vulnerable to harassment and sexual assault. That is why women’s organizations that advocate for victims of violence and sexual assault, like the Boston Area Rape Crisis Center and Jane Doe, Inc., support this bill. Transgender women will benefit from this legislation while hurting no one. Those are the facts.

Massachusetts has been a leader in civil rights, but we are falling behind embarrassingly on this issue. It is time to stand up against discrimination and provide comprehensive, statewide protections to our transgender residents. We urge the Judiciary Committee to favorably report HB 1577 and SB 735 swiftly, and that this bill move expediently to the House and Senate floor for a vote. Fear and discrimination are learned, let the Commonwealth not perpetuate and condone this inappropriate behavior. Transgender rights simply cannot wait.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kimberly Dougherty". The signature is fluid and cursive, with a large loop at the end.

Kimberly Dougherty,
President of the Women’s Bar Association (WBA) of Massachusetts

A handwritten signature in black ink, appearing to read "Ellie Adair". The signature is cursive and somewhat stylized.

Ellie Adair
President of the Massachusetts Chapter of the National Organization for Women (Mass NOW)



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*These organizations stand in solidarity with the efforts of Freedom Massachusetts
as they relate to the successful passage of SB 735/ HB 1577*

Massachusetts Chapter of the National Organization for Women

Women's Bar Association (WBA) of Massachusetts

NARAL Pro-Choice Massachusetts

Planned Parenthood Advocacy Fund

American Association of University Women

YWCA Boston

Boston GLOW

Girls Inc.

MataHari- Women's Work Center

Rosie's Place

Crittenton Women's Union

Women Will Vote

National Association of Social Workers, Massachusetts Chapter

Victim Rights Law Center

Boston Area Rape Crisis Center

Jane Doe Inc