



MFI Brief

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LEGISLATIVE BRIEF

HB 1728 Guts “Healthworks” Exemption

Some argue that H.B. 1728, “An Act Relative to Gender Based Discrimination and Hate Crimes” (also filed as S.B. 1687) will not affect the operation of those health clubs and other places of recreation and sport that are limited to members of the same sex. They contend that a provision known as the “Healthworks” exemption* in Massachusetts’ non-discrimination law would allow single-sex facilities to continue to limit access to persons of the same sex, despite the bill’s mandate to not discriminate on the basis of “gender identity and expression.”

This claim is false. **Rather than being limited by this exemption, the bill amends it in a way that requires persons who merely that say they identify with the opposite biological sex to be admitted to single-sex places as if they were members of that sex. This guts the exemption.** Compare the current exemption with the bill’s language, to be inserted into the paragraph that contains the exemption—

“Healthworks” Exemption (in M.G.L. c. 272, § 92A): “with regard to the prohibition on sex discrimination, this section shall not apply to a place of exercise for the exclusive use of persons of the same sex which is a bona fide fitness facility established for the sole purpose of promoting and maintaining physical and mental health through physical exercise and instruction, if such facility does not receive funds from a government source, nor to any corporation or entity authorized, created or chartered by federal law for the express purpose of promoting the health, social, educational vocational, and character development of a single sex;”

H.B. 1728, Section 25 (amending M.G.L. c. 272, § 92A by adding the following): “The exceptions to the prohibitions of sex discrimination stated herein shall only apply to the extent such places of public accommodation, resort or amusement allow persons the full enjoyment of the accommodations consistent with an individual’s gender identity or expression.”

As a result of this change, the bill forces single-sex facilities to be opened to both sexes. Laura Langley of the Massachusetts Transgender Political Coalition and the bill’s co-author has offered the same interpretation. She agrees that men-only or women-only facilities would have to admit persons of the opposite biological sex who claim not to identify with their own biological sex: “A transgender person who identifies as a particular gender would be entitled to use bathroom, locker room and other single-sex facilities for that gender, regardless of whether or not they have had surgery or are taking hormones.” **

* So named because it was passed as a result of a legislative campaign by Healthworks Fitness Center in Boston after a state court ruled in 1997 that the original legislative ban against sex discrimination required the women-only center to admit men.

** Bay Windows, “Advocates, opponents of trans rights bill to have their say on Beacon Hill”, February 28, 2008: <http://www.baywindows.com/index.php?ch=news&sc=glbt&sc3=&id=70904>.

SUPPORT Privacy for Everyone – OPPOSE the Transgender Bill, HB 1728.