

Improper Purpose

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Abstract

Massachusetts recently signed into law an anti-discrimination bill which adds gender identity to its protected classes in the areas of employment and housing only. Gender identity is defined as follows: “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 [...]

Article

Massachusetts recently signed into law an anti-discrimination bill which adds gender identity to its protected classes in the areas of employment and housing only. Gender identity is defined as follows:

“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.

So “gender identity” for the purpose of this law shall mean a person’s gender-related identity, or a person’s gender-related appearance or a person’s gender-related behavior.

What of gender-related behavior?

According to the American Psychological Association’s abstract concerning “Putting gender into context: An interactive model of gender-related behavior”, an article in is publication, Psychological Review© They write:

“..Whereas many previous models stress the importance of distal factors, our model emphasizes the degree to which gender-related behavior is variable, proximally caused, and context dependent. More specifically, we propose that gender-related behaviors are influenced by the expectations of perceivers, self-systems of the target, and situational cues. “ (PsycINFO Database Record (c) 2010 APA, all rights reserved)

That is to state, the APA emphasizes the degree to which gender-related behavior is variable, proximally caused, and context dependent. So “the expectations of perceivers, self-systems of the target, and situational cues.” are the influencing factors. What others expect of us, what we know about ourselves and the dynamic in which the two mix. An example of a situational cue is when someone approaches you, smiles, extended their hand and says “hello”, the conditioned response is to shake their hand. So if others perceive us to be one gender and we exhibit behavior not typically aligned with that perceived gender, there may be conflict.

Many “perceivers” often traverse the obstacle and proceed through the situation, dismissing their internal incongruence of the situation. In other words, they see no real obstacle which needs to be addressed and move past it.

Yet when discrimination occurs, the perceiver is often refusing to acquiesce to the dynamic which conflicts with their perceptions, and not allow the target the leeway to proceed through the situation unabashed. This could be an employment environment, a housing environment or an environment of public accommodations, including those distinctly private and personal.

The purposes of civil rights are to protect individuals’ freedom from unwarranted infringement and ensure one’s ability to participate in the civil life of the state without discrimination or repression. Civil rights include the ensuring of peoples’ physical integrity and safety; protection from discrimination.

If the above language of the law stopped here, it would suffice in its intended measure. However, it follows with this:

“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, gender-related identity shall not be asserted for any improper purpose.”

So one shall provide evidence of medical history, care or treatment of the gender-related identity consistent of uniform assertion of that gender-related identity or any other evidence.

One can not provide consistent and uniform assertion of the gender-related behavior, because it is subjective to the perceiver, the target and the situation. Again according to the APA, it is variable, proximally caused, and context dependent.

What the language does is it creates a class of individuals who are protected distinctly by their ability to pursue conformity to a gender norm (whether or not that gender norm “is different from that traditionally associated with the person’s physiology or assigned sex at birth”) and only if it is consistent, or evidentiary based. Many of which can not, and that is, part of the basis of the discrimination against them.

“... provided however, gender-related identity shall not be asserted for any improper purpose.”

Do any other anti-discrimination laws, covering other protected classes, use this term?

Why?

Beside being grossly insulting as to the essence of the individuals within the protected class, it infers a default intent of improper purpose and only allows for gender-related identity when not asserted for said “improper use”

In layman’s terms, they’ve sought to define a transsexual and have cast aspersions upon the character of transgender people. Imagine a law suggesting the following:

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

Improper purpose.

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