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March 4, 2008

The Honorable Robert S. Creedon, Jr., Chairman
The Honorable Eugene L. O'Flaherty, Chairman
Joint Committee on the Judiciary
State House
Boston, MA 02133

Re: House Bill 1722

Dear Chairman Creedon, Chairman O'Flaherty and Members of the Joint Committee:

I am writing to express my support for House Bill 1722, *An Act Relative to Gender-Based Discrimination and Hate Crimes*, which clarifies and makes explicit in our Massachusetts antidiscrimination and hate crime laws that persons are entitled to equal protection under the law regardless of their gender identity or expression. HB 1722 is consistent with the Commonwealth's tradition of ensuring fair and equal treatment for all people and with case law on the issue. In addition, HB 1722 brings Massachusetts into accord with more than a dozen other states and several municipalities, as well as with businesses and employers in the Commonwealth and across the country, that have already recognized in their laws and policies the need to protect against discrimination based on one's gender identity or expression.

As Attorney General, I am committed to protecting the civil rights of all people in the Commonwealth, and to enforcing our antidiscrimination and hate crime laws to their fullest extent. The Attorney General's Office is responsible for prosecuting discrimination claims under chapters 71, 76, 151B and 272 of the General Laws and civil rights violations against perpetrators of hate crimes under the Massachusetts Civil Rights Act, chapter 12, section 11H. As with these laws, HB 1722 reflects the fact that the Commonwealth is stronger when every person may live, work, attend school, and access places of public accommodation without being discriminated against, harassed, threatened or assaulted.

Regrettably, transgender persons have been subjected to significant discrimination, and at times violence, due to misconceptions and prejudice regarding gender identity or expression. HB 1722 amends chapter 151B, section 4 to prohibit discrimination against people on the basis of their gender identity or expression in the areas of employment, housing, insurance, credit and real estate transactions. HB 1722 similarly amends chapters 272, sections 92A and 98, and chapters 71 and 76 to prohibit discrimination based on gender identity or expression in places of public accommodation and public education. In addition, HB 1722 amends chapter 22C, section 32 and chapter 265, section 39(a) of the General Laws to add the category of gender identity or expression to the Massachusetts hate crimes laws.

The protections codified by HB 1722 have been recognized in decisions by Massachusetts state courts and the Massachusetts Commission Against Discrimination. In those cases, persons who were discriminated against based on their gender identity or expression were able to obtain protection on the

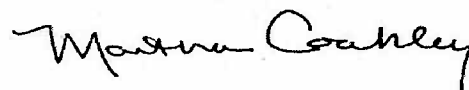
basis of "sex" or "disability" under chapter 151B. However, discrimination based on gender identity or expression does not always neatly fit within these existing categories. HB 1722 makes clear that these victims of discrimination and violence are protected under our state's antidiscrimination and hate crime laws. This codification will ensure more consistent and uniform application of antidiscrimination law and will provide clarity to Massachusetts employers, landlords, businesses, lenders, state agencies and schools to ensure that they protect against discrimination and combat violence and harassment based on gender identity or expression.

The legal protections against discrimination on the basis of gender identity or expression set forth in HB 1722 have already developed across the country. Although Massachusetts was at the forefront of enacting laws to prohibit discrimination on the basis of sexual orientation, the Commonwealth is now behind many other states in extending legal protections to persons based on their gender identity or expression. Currently, twelve states and the District of Columbia have amended their antidiscrimination laws to protect against discrimination based on gender identity or expression, and eleven states include gender identity or expression in their hate crimes statutes. At least 81 counties and cities across the country, including cities in Massachusetts, have antidiscrimination laws or ordinances to protect against discrimination based on gender identity or expression. In addition, many businesses and employers, including Fortune 500 companies and other businesses headquartered in Massachusetts, have already amended their antidiscrimination policies to include gender identity or expression as a protected category. By enacting HB 1722, the Commonwealth will join with these states, municipalities and businesses around the country that recognize the importance of providing this protection.

HB 1722 is consistent with the Commonwealth's long tradition of ensuring that our laws protect persons from discrimination and hate crimes. Massachusetts was among the first states in the nation to pass an antidiscrimination law. When enacted in 1946, chapter 151B provided that "[t]he right to work without discrimination because of race, color, religious creed, national origin or ancestry is hereby declared to be a right and privilege of the inhabitants of the commonwealth." St. 1946, c. 368, § 1. Chapter 151B has since been expanded to increase its protections of the Commonwealth's residents. These include amendments in 1950 to add age (St. 1950, c. 697, §§ 6-8), in 1957 to add prohibitions against housing discrimination (St. 1957, c. 426, § 2), in 1965 to add sex (St. 1965, c. 397, §§ 4-6), in 1983 to add handicap discrimination (St. 1983, c. 533, §§ 4-6), and in 1989 to add sexual orientation. (St. 1989, c. 516, §§ 1-8). These amendments to our antidiscrimination laws reflect strides forward in our prevention of discrimination and violence faced by vulnerable members of our population.

Thank you for addressing this important issue. I urge you to give HB 1722 a favorable recommendation.

Cordially,

A handwritten signature in black ink that reads "Martha Coakley". The signature is written in a cursive, flowing style.

Martha Coakley
Attorney General