

## **Massachusetts Signs Law Prohibiting Gender Identity Discrimination**

**November 30, 2011**

On November 23, Governor Deval Patrick of Massachusetts signed House Bill 3810 into law. The law prohibits private employers with six or more employees in Massachusetts from discriminating against employees and applicants on the basis of gender identity. Gender identity will become a protected category with respect to private employment, and will be added as a protected category to several laws designed to protect people from hate crimes and harassment. It will also affect public or charter school policies, public accommodations, credit and lending services, and certain other civil rights protections. The new law will go into effect on July 1, 2012.

### **House Bill 3810**

The law 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. The definition covers transgender individuals. It is estimated that approximately 33,000 citizens of the Commonwealth of Massachusetts will be covered by the new law.

Gender-related identity may be shown by providing evidence including, but not limited to, a person’s medical history, the care or treatment of the gender-related identity, a 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. The law specifies, however, that gender-related identity may not be asserted for any improper purpose.

The law protects transgender employees by making it an unlawful employment practice to refuse to hire or employ or to bar or discharge from employment any individual on the basis of a person’s gender identity or to discriminate against such individual in compensation or in terms, conditions, or privileges of employment, unless differential treatment is based upon a bona fide occupational qualification.

### **A Hot Topic for Employers**

Massachusetts joins the 15 other states of California, Colorado, Connecticut, Hawaii, Illinois, Iowa, Maine, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and



**Miami**

Sharon A. Lisitzky 305.415.3369 [slisitzky@morganlewis.com](mailto:slisitzky@morganlewis.com)

**New York**

David A. McManus 212.309.6824 [dmcmanus@morganlewis.com](mailto:dmcmanus@morganlewis.com)  
Melissa C. Rodriguez 212.309.6394 [mcrodriguez@morganlewis.com](mailto:mcrodriguez@morganlewis.com)

**Palo Alto**

Carol R. Freeman 650.843.7520 [cfreeman@morganlewis.com](mailto:cfreeman@morganlewis.com)

**Philadelphia**

Sarah E. Bouchard 215.963.5077 [sbouchard@morganlewis.com](mailto:sbouchard@morganlewis.com)  
Paul C. Evans 215.963.5431 [pevans@morganlewis.com](mailto:pevans@morganlewis.com)  
Michael J. Ossip 215.963.5761 [mossip@morganlewis.com](mailto:mossip@morganlewis.com)

**Princeton**

Rene M. Johnson 609.919.6607 [rjohnson@morganlewis.com](mailto:rjohnson@morganlewis.com)

**San Francisco**

Eric Meckley 415.442.1013 [emeckley@morganlewis.com](mailto:emeckley@morganlewis.com)  
L. Julius M. Turman 415.442.1361 [jturman@morganlewis.com](mailto:jturman@morganlewis.com)

**Washington, D.C.**

Karen E. Gray 202.739.5334 [kgray@morganlewis.com](mailto:kgray@morganlewis.com)  
Grace E. Speights 202.739.5189 [gspeights@morganlewis.com](mailto:gspeights@morganlewis.com)

**About Morgan Lewis's Labor and Employment Practice**

Morgan Lewis's Labor and Employment Practice includes more than 265 lawyers and legal professionals and is listed in the highest tier for National Labor and Employment Practice in *Chambers USA 2011*. We represent clients across the United States in a full spectrum of workplace issues, including drafting employment policies and providing guidance with respect to employment-related issues, complex employment litigation, ERISA litigation, wage and hour litigation and compliance, whistleblower claims, labor-management relations, immigration, occupational safety and health matters, and workforce change issues. Our international Labor and Employment Practice serves clients worldwide on the complete range of often complex matters within the employment law subject area, including high-level sophisticated employment litigation, plant closures and executive terminations, managing difficult HR matters in transactions and outsourcing, the full spectrum of contentious and collective matters, workplace investigations, data protection and cross-border compliance, and pensions and benefits.

**About Morgan, Lewis & Bockius LLP**

With 22 offices in the United States, Europe, and Asia, Morgan Lewis provides comprehensive transactional, litigation, labor and employment, regulatory, and intellectual property legal services to clients of all sizes—from global Fortune 100 companies to just-conceived startups—across all major industries. Our international team of attorneys, patent agents, employee benefits advisors, regulatory scientists, and other specialists—nearly 3,000 professionals total—serves clients from locations in Beijing, Boston, Brussels, Chicago, Dallas, Frankfurt, Harrisburg, Houston, Irvine, London, Los Angeles, Miami, New York, Palo Alto, Paris, Philadelphia, Pittsburgh, Princeton, San Francisco, Tokyo,

Washington, D.C., and Wilmington. For more information about Morgan Lewis or its practices, please visit us online at [www.morganlewis.com](http://www.morganlewis.com).

This LawFlash is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered **Attorney Advertising** in some states. Please note that the prior results discussed in the material do not guarantee similar outcomes.

© 2011 Morgan, Lewis & Bockius LLP. All Rights Reserved.

