

# **Transgender Rights in Maine:**

## ***Progress in Action***

On December 28, 2005, Maine’s historic anti-discrimination law protecting sexual orientation and gender identity and expression went into effect, bringing important legal protections for Maine’s transgender population. But the fight for equal treatment is not over, and its future progress will depend on our collective and continued advocacy. Here are some areas where individuals can help Maine take the next steps toward equality.

### ***Ensuring Strong Anti-Discrimination Protections***

The Maine Human Rights Commission recently released regulations to implement the new anti-discrimination law in Maine protecting sexual orientation and gender identity and expression: <http://www.maine.gov/tools/whatsnew/index.php?topic=mhrcNews&id=42013&v=article>.

These regulations define “gender identity” as “an individual’s gender-related identity, whether or not that identity is different from that traditionally associated with that individual’s assigned sex at birth, but not limited to, a gender identity that is transgender or androgynous.” 94-348 Me. Code R. ch. 3, §3.02(D)(1).

They further define “gender expression” as “the manner in which an individual’s gender identity is expressed, including, but not limited to, through dress, appearance, manner, speech, or lifestyle, whether or not that expression is different from that

traditionally associated with that individual's assigned sex at birth." 94-348 Me. Code R. ch. 3, §3.02(D)(2).

One important obligation on employers imposed by these regulations is to make reasonable accommodations for transgender employees. 94-348 Me. Code R. ch. 3, sec. 3.12(F). The regulation states that it is "an unlawful employment practice of an employer, employment agency, or labor organization to fail or refuse to make reasonable accommodations in rules, policies, practices, or services that apply directly or indirectly to gender identity or gender expression, unless the covered entity can demonstrate that the accommodations would impose an undue hardship on the conduct of the business of the covered entity." 94-348 Me. Code R. ch. 3, §3.12(F)(1).

Such accommodations may include being allowed to use the most appropriate bathroom or planning the best way to transition while on the job. It is also illegal for an employer to deny employment if that denial is based on the need to make a reasonable accommodation. 94-348 Me. Code R. ch.3, §3.12(F)(2).

If you are having difficulties getting your employer to accommodate your needs with regard to your gender identity or expression, please contact GLAD to find out more about your options.

### ***Protecting Youth in Schools***

As awareness grows regarding gender non-conforming children, GLAD hears more and more from parents of gender-variant children who meet resistance and open hostility from school districts when seeking safety protections or reasonable accommodations for their children. These reports range from schools not allowing a child to use a safe and appropriate bathroom to schools ignoring bullying and attacks by other students.

Because Maine's anti-discrimination protections apply to both public and most private schools, 5 Me. Rev. Stat. §4553, families

and individuals have a powerful tool in combating such discrimination.

In addition, the student may be protected under Maine's prohibition against sexual harassment in schools, including unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature that substantially interferes with a student's academic performance or creates an intimidating, hostile or offensive educational environment. 05-071 Me. Code R. ch. 4, §4.19. We encourage any youth facing these difficulties to contact us sooner as opposed to later.

### ***Fighting for Accurate Identity Documents***

While GLAD has seen some progress in transgender people obtaining the correct sex designation on important identity documents, such as birth certificates and driver's licenses, significant barriers continue.

For example, Maine currently allows only those "whose sex has been changed by surgical procedure" to amend the sex designation on their birth certificates. Code Me. R. § 10-146 ch. 2, § 11 (2005). This surgical requirement presents obvious challenges to the transgender community, many of whom do not undergo sex-reassignment surgery for a variety of reasons. Yet, having the correct sex-designation on a birth certificate is necessary for many purposes as well as for changing the sex designation on other important identification documents.

For changing gender on a Maine driver's license, although there is no official policy, people have been successful in pursuing the following protocol:

Send a letter to the Secretary of State's office stating: "I am applying to change my gender designation to \_\_\_\_\_." The letter should contain your full name, date of birth, address, telephone number, and signature. Send the letter to:

Office of the Secretary  
Matthew Dunlap, Secretary of State  
148 State House Station  
Augusta, Maine 04333-0148

Also include a written statement from a physician/psychologist/therapist/counselor who is licensed to practice in the U.S. that states to the effect that: "I am a licensed \_\_\_\_\_, and in my professional opinion the applicant's gender identity is \_\_\_\_\_." This statement should include the provider's full name, organization/affiliation, professional license number, address, telephone number and full signature.

The Secretary of State will then review this information and, if the documentation is sufficient, forward authorization for the gender change to the Maine Bureau of Motor Vehicles.

A nominal fee may be required.

### ***For Further Information***

For further information about transgender issues in New England, read GLAD's publications *Transgender Legal Issues in New England* and *Transgender Resources* that can be obtained either on the web at [www.glad.org](http://www.glad.org) or in printed form by contacting GLAD. GLAD operates a Legal InfoLine every weekday from 1:30 to 4:30 pm. Anyone with questions about their rights under the law, in need of referrals to trans-friendly attorneys, or wishing to discuss the details of a legal situation can call toll free at:

**800-455-GLAD (4523)**

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