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Massachusetts' Criminal Justice Reform Bill Recognizes LGBTQ Rights

BY CHELSIE A. VOKES • NOVEMBER 3, 2017

I. The Criminal Justice Reform Act

While most of us were sleeping during the early hours of Friday, October 27, Massachusetts' State Senators were busy reforming our criminal justice system. At one thirty in the morning, they passed An Act Relative to Criminal Justice Reform (the “[Bill](#)”), which could become law if it is passed by the House of Representatives.

Notably, the Bill repeals mandatory minimums for low level drug offenders and increases the age of criminal minority to nineteen. Tucked away in line 733, the Bill also provides protections for prisoners who identify as LGBTQ. Under Section 39(A), “[a] prisoner who is or is perceived to be lesbian, gay, bisexual, transgender, queer or intersex or has or is perceived to have a gender identity or expression or sexual orientation uncommon in general population shall not be grounds for placement in restrictive housing.”

II. What This Means

The Bill prohibits jails from placing prisoners in solitary confinement solely because they identify as LGBTQ. While this may sound like basic human rights, it is contrary to current practice. To begin with, LGBTQ individuals are incarcerated at a [higher rate](#) than their non-LGBTQ peers. Once in jail, they are significantly more likely to be placed in solitary confinement. One [survey](#) found that over 85% of LGBTQ prisoners reported spending time in solitary confinement. Out of this 85%, half spent two or more years in isolation.

This inequality defines the success and wellbeing of many LGBTQ prisoners, both within and outside the walls of the prison. [Research](#) shows that solitary confinement is a rehabilitative failure. Instead of preparing individuals for life outside of the cell, it deprives prisoners of human interaction and wreaks havoc on their mental health. As former President Barack Obama once said in an Opinion published by the [Washington Post](#), “[i]magine having served your time and then being unable to hand change over to a customer or look your wife in the eye or hug your children.”

Solitary confinement can mean this and more for LGBTQ individuals who already face mental illness at a rate [three times](#) that of their peers. This Bill is a small, but meaningful, step towards changing these statistics.

III. I'm Just a Bill

Although the Bill has passed in the Senate, it also must pass in the House of Representatives in order for it to become law. If it does pass, this law will be part of a broader [movement](#) seeking to improve the lives of LGBTQ prisoners. Check back for more developments as this Bill makes its way through the House.