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Proposed Bill to Mandate Female Directors on Corporate Boards

BY CESIRA NEWCOMB • JANUARY 18, 2019

State Senator Jason Lewis of Winchester, Massachusetts, intends to file proposed legislation on Friday, January 18, 2019, that, if approved, would require all publicly traded companies with principal executive offices in Massachusetts to have female directors on their boards. Specifically, if the bill is passed, by the end of 2021 every corporate board would need at least one female director. By 2023, if a company's board has five directors or less, at least two of them need to be women. For companies with six or more directors, at least three need to be women. Compliance would be monitored by the Secretary of State.

Currently, at least 10 of the 100 largest public companies in Massachusetts have no women on their boards.

Companies failing to meet the requirement could be subject to a fine of up to \$100,000.

Senator Lewis also plans to file a sister bill for the public sector, holding that by January 2022, at least half the members of every state board and commission should be women and, whenever "practicable," the racial and ethnic composition of those boards should reflect the general population. There are more than 400 boards and commissions in the state government. Compliance would be tracked by the Massachusetts Commission Against Discrimination (MCAD).

Both proposed bills are still being finalized.

The legislation is modeled after a law signed in California in September 2018, the first of its kind in the country. The law was met with staunch opposition from the California business community, questioning its constitutionality. However, affirmative action measures such as these have been upheld by courts when they are deemed "substantially related" to achieving the "important" government purpose of redressing longstanding discrimination against a minority group in a particular sector.