



Lawmakers to introduce trans-inclusive ENDA in '07

Frank to help draft new language; Kennedy mum on support for bill

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By LOU CHIBBARO JR

Democratic and Republican members of the House and Senate will introduce a new version of the Employment Non-Discrimination Act, or ENDA, early next year that for the first time will include protection for transgender persons, Rep. Barney Frank (D-Mass.) said this week.

Frank, who has been a lead sponsor of ENDA in the past, said he believes a carefully drafted trans-inclusive ENDA would likely receive the same if not more co-sponsors than the earlier version did in 2004.

Known as the nation's federal gay civil rights bill, ENDA has called for banning employment discrimination in the private sector workplace based solely on someone's sexual orientation. The revised version would also ban employment discrimination based on a person's "gender expression and identity," the term used to cover trans people, according to activists familiar with the proposed bill.

Many congressional experts have said that under the current Republican-controlled Congress, an ENDA bill with or without a transgender clause could not pass. Political observers familiar with ENDA have said a bipartisan majority in both the Senate and House has indicated they would vote for ENDA in the past, but House GOP leaders have blocked the legislation from reaching the House floor.

Gay and transgender activists have said chances for passing ENDA would improve if Democrats win control of Congress in the November elections.

Frank said agreement over the new language came after months of discussions and negotiations between lawmakers supportive of ENDA and gay rights and transgender advocacy groups.

Agreement over the transgender language also came after Frank and his colleagues in the House and Senate chose not to reintroduce ENDA in the 109th Congress, which covers 2005 and 2006. That decision marked the first time in more than 20 years that a gay civil rights bill had not been introduced in Congress.

"The transgender issue complicates things," Frank said. "We expect Republican demagoguery on this, so we had to work on ways to address every contingency. That took some time." He said the revised bill was ready in September.

"If we introduced it in September, we would be in the middle of the election campaign," he said. "We would have wound up with fewer co-sponsors. I argued that we should do it in January."

According to Frank, the revised bill also will include language that allows employers to retain dress code requirements consistent with existing federal non-discrimination laws. He said such language would make it clear that an employer would not be forced to hire someone "with a beard wearing a dress."

Mara Keisling, executive director of the National Center for Transgender Equality, said dress code clauses were included in transgender rights bills passed by several cities and states, including California.

“Most Americans would say it is OK for businesses to have sensible dress codes,” Keisling said. “The language in the [draft ENDA] bill says employers can have reasonable dress codes while saying gender identity should be respected.”

Frank said he would not release the draft bill before he and his House colleagues introduce it early next year. Keisling said Frank circulated the bill to various advocacy groups, but that she would respect his wish not to release it before he and his congressional colleagues sign on as co-sponsors and drop the bill into the congressional hopper.

Keisling and other transgender activists say the growing support for adding transgender protections to ENDA represents a remarkable change in attitudes about trans issues among lawmakers and the American public.

“In the last five years, U.S. policy makers and the pop culture have really started to engage in transgender issues,” said Christopher Daley, director of the San Francisco-based Transgender Law Center.

“It all goes back to the efforts to educate the community,” Daley said.

Daley and Keisling said the decision in the past several years by prominent gay civil rights groups, such as the **National Gay & Lesbian Task Force** and the Human Rights Campaign, to embrace transgender rights efforts provided an important boost to transgender activists.