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## Senate OKs hate-crimes bill protecting gays, lesbians

But House Democrats weaken employment legislation for transgender people

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Even as the Senate passed a hate crimes bill sought for a decade by gays and lesbians, House Democratic leaders decided Thursday to strip transgender people from another long-languishing civil rights bill, generating dismay in the gay community and furious but fruitless lobbying for more time.

House Speaker Nancy Pelosi of San Francisco and Reps. George Miller, D-Martinez, Barney Frank, D-Mass., and Tammy Baldwin, D-Wis., believe that they lack the votes in the Democrat-controlled House to pass the Employment Non-Discrimination Act if it includes gender identity along with sexual orientation as a prohibited ground for firing an employee.

Frank and Baldwin are the only openly gay members of Congress.

"People now accept the fact that we just don't have the votes for the transgender," Frank said. Nervous Democrats had been hearing about Republican amendments to the employment bill, Frank said, "that would talk about schoolteachers, and what happens when the kid comes back from summer vacation and teachers change gender. We just lost enough Democrats and we couldn't be sure of the Republicans."

The move put a damper Thursday on what Democrats otherwise were hailing as a landmark day for gay rights.

The hate crimes legislation is the first major victory by gay activists since Democrats assumed control of Congress in January. It marks a major shift in direction after fights over same-sex marriage roiled the 2004 elections and put the gay rights movement on the defensive.

The hate crimes bill would add sexual orientation, transgender identity, gender and disability to current federal hate crimes law, which covers violence motivated by race, color, religion and national origin.

The law provides aid to state and local law enforcement officials, if they request it and the U.S. attorney general approves, to investigate and prosecute such crimes.

Some gay activists said Democratic leaders were worried that including transgender people in the employment discrimination bill would expose conservative House Democrats to a tough vote. Frank dismissed that charge as "stupid."

"They had no idea what they were talking about," Frank said. "We put them to a vote on transgender hate crimes. We're going to put them to a vote on sexual orientation. The problem wasn't that we were afraid of it. We just didn't have the votes."

To those who argue Frank and other Democrats were caving in by dropping transgender people from the employment discrimination bill, he said, "Have they been living in Sweden and thinking

they were in America for the last 20 years? We're going to go ahead with sexual orientation for the first time in American history. Why would timid people be pushing people to do that?"

Frank promised hearings on a separate bill later directed at workplace discrimination against transgender people to help educate lawmakers and the public. The definition of transgender is still in flux, but includes transvestites, people who have changed their gender and others whose sexual identity, as opposed to orientation, is at issue.

Oddly enough, the hate crimes bill that passed the Senate Thursday includes transgender people and won 60-39, the supermajority necessary to beat a Republican filibuster. All 49 Senate Democrats voted for it, along with two independents and nine Republicans. Sen. Larry Craig, the Idaho Republican trying to reverse his guilty plea to soliciting sex in a men's airport bathroom, voted against the legislation.

Gay activists argued that transgender people are among those most in need of discrimination protection. Getting some future bill passed just for them will be much harder than including them now with gays and lesbians, who are increasingly accepted by society. Activists were outraged.

**"This is morally reprehensible and politically inexplicable," said Matt Foreman, executive director of the National Gay and Lesbian Task Force. "My experience across the country is whenever a gay bill moves, there are last-minute jitters. ... You work on getting the votes, not abandoning part of our community."**

Action on the employment discrimination bill was scheduled for a House vote this week, but was delayed in the House Education and Labor Committee, which Miller chairs, as Democrats canvassed members.

Frank argued that passing a hate crimes bill protecting transgender people has always been easier than including them in an employment discrimination bill.

"Simply protecting, or trying to protect someone against assault is very different from saying you have to hire the person and let them live here and sleep here, etc., etc." Frank said. "Obviously, we didn't think that was persuasive."

Removing transgender people may do little to appease conservative groups. Matt Barber, policy director for Concerned Women for America, said his group is "opposed to the concept of granting suspect minority status to any group based on behaviors, as opposed to immutable characteristics." The hate crimes bill, known as the Matthew Shepherd Act, was successfully attached by Sen. Edward Kennedy, D-Mass., to the Senate legislation authorizing funding for the Iraq war and the Pentagon. A similar measure passed the House on May 3 as a free-standing bill, drawing a veto threat from President Bush.

By attaching the measure to a bill that authorizes spending for the Iraq war, Democrats have put the White House in a difficult corner, potentially forcing Bush to veto the entire legislation over the hate crimes provision.

White House spokeswoman Dana Perino said veto threats have been issued on several provisions in the defense bill. "Given that there are so many different things that a senior adviser might recommend a veto on, I'm not going to say specifically on this, but our position has been consistent" in opposing the hate crimes legislation, Perino said.

The legislation is named for Shepherd, who in one of the nation's most notorious anti-gay crimes, was beaten into a coma and left on a barbed wire fence in Wyoming in 1998.

Republicans argued the bill was unnecessary and amounted to a vast expansion of federal intervention into local law enforcement.

Federal crime statistics show that 27,432 people were victims of hate-motivated violence over the last three years. Estimates from the Southern Poverty Law Center double that number based on other surveys.

Sen. Orrin Hatch, R-Utah, called the bill unnecessary and unconstitutional, noting that Shepherd's murderers, Russell Henderson and Aaron McKinney, were both sentenced to two consecutive life terms in prison.