

Gay-rights milestone draws transgender activists' outcry

Anti-discrimination protections in bill won't cover group

By Gabrielle Russon
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A bill forbidding workplace discrimination based on sexual orientation -- which gay activists see as a milestone in three decades of activism -- is moving steadily through the House, encouraging advocates who hope to make advances now that Democrats control Congress.

But the Employment Non-Discrimination Act, or ENDA, has been met by impassioned resistance, and it's not from conservatives opposed to gay rights. Rather, transgender activists, backed by many in the gay community, are angry that the bill's sponsors, in a bow to political reality, stripped out protections for those who are born as one gender but live as the other.

The small but vocal transgender community has generated notable support among activists for its demand that the bill not move forward without including them. A coalition of about 300 groups sent House Speaker Nancy Pelosi a letter Oct. 1 saying, "We oppose legislation that leaves part of our community without protections and basic security that the rest of us are provided."

This opposition has deeply frustrated the bill's backers, including Pelosi (D-Calif.) and Rep. Barney Frank (D-Mass.), who warn that a short-sighted insistence on purity could torpedo a long-cherished goal. The non-discrimination bill -- scheduled for a committee vote Thursday -- cannot pass if it includes transgender rights, they say.

"You protect people when you can," said Frank, one of the only openly gay members of Congress. "The notion you don't do anything until you do everything is self-defeating."

Activist: Bill writes a wrong

For many gay activists, a non-discrimination bill that omits transgender people would write immorality into the law, akin in their view to a civil rights bill that protects blacks but not Hispanics. The way transgender people have been incorporated into gay activism is symbolized by the frequent use of the term GLBT, or gay, lesbian, bisexual and transgender.

Cutting off transgender people would betray that coalition, some argue. "We as a community are accustomed to gaining our rights incrementally," said Roberta Sklar, spokeswoman for the National Gay and Lesbian Task Force. "Issue by issue, not person by person."

Rick Garcia, public policy director at Equality Illinois, a GLBT advocacy group with 12,000 members, said the bill would not cover all gays and lesbians if it omits transgender people. He points to Illinois, which has a state law banning discrimination based on gender identity, as proof that such a bill could pass.

"I am in the heartland. I am in the middle of the country," Garcia said. "If it can play here, it can play anywhere."

The battle reflects a larger issue facing the Democrats now that they control Congress for the first time in 12 years. Activists, full of pent-up energy after their long exile, are pushing the party on a variety of issues -- from the Iraq war to impeaching President Bush -- toward positions that party leaders fear are unrealistic and even politically damaging.

"I came to the Congress as an advocate myself, so on any issue you can name, I appreciate the relentless, dissatisfied persistence of advocates," Pelosi said recently. "There is a level of dissatisfaction that will always be there." But, she added, activists and party leaders have distinct roles.

Frank echoed that point. "Does a political party say to its most militant, committed, ideologically driven believers in purity that they have a veto over what the party does?" Frank said. "How do we relate to those people? And it has become an increasing problem for both parties."

He emphasized that the choice on this measure is between getting no bill and one that omits transgender people. In a highly personal Oct. 9 speech on the House floor, he seemed agonized that he was being accused of indifference to transgender rights.

"I say to my colleagues in the gay community, maybe I will do a little stereotyping, maybe they have seen 'The Wizard of Oz' too often," Frank said. "They seem to have Speaker Pelosi -- a wonderful, dedicated, committed supporter of human rights -- confused with Glenda the good witch. They think if she waved her magic wand, she could somehow change things."

'Attack on people of faith'

On the conservative side, most activists oppose the bill whether or not transgender rights are included.

"It's an attack on businesses and people of faith," said Tom McClusky, vice president for government affairs at the Family Research Council. "Businesses wouldn't have the freedom to hire whoever they want."

Still, American culture and politics reflect a growing acceptance of gay rights, but a discomfort with the notion of someone born into one gender but identifying with the other.

"Little by little, the broader culture has included gay people," said Sheila Kennedy, a law and public policy professor at Indiana University who has written on the subject. "You don't see that same thing occurring with transgender people, at least not nearly to the same extent. ... It's perceived as strange or unusual."

For now, Democratic leaders are pushing ahead with their version of the bill that omits transgender protection. The House Committee on Education and Labor is scheduled to vote Thursday, and supporters are hopeful the full House will pass it.

Pelosi has agreed to allow an amendment on the floor to include transgender rights, which is expected to fail.

Meanwhile, gay activists fear Bush will veto the bill, but they argue that even congressional passage would mark an enormous step forward.