



Hate crimes, ENDA seen as top legislative priorities

Activists hopeful that Democrats will push gay bills

By LOU CHIBBARO JR, Washington Blade
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Officials with the Human Rights Campaign and **National Gay and Lesbian Task Force** are hopeful that Barack Obama's administration and Democratic leaders in Congress will help orchestrate the passage next year of two gay rights bills that enjoy widespread support.

The Matthew Shepard Act, which would authorize federal authorities to prosecute anti-gay hate crimes, and the Employment Non-Discrimination Act, which would ban job discrimination based on sexual orientation and gender identity, are considered high priorities among gay-supportive lawmakers, officials with the two groups said.

"For the first time ever, we will have a president who has been a co-sponsor of both of these bills," said David Stacy, HRC's senior public policy advocate.

President-elect Obama sponsored the two bills during his tenure as a U.S. senator from Illinois.

During his campaign for president, Obama expressed support for nearly all other gay rights legislation pending in Congress, including bills that would provide domestic partnership benefits to federal employees, repeal the Defense of Marriage Act and overturn "Don't Ask, Don't Tell."

Other pending bills would provide U.S. immigration rights to foreign nationals who are domestic partners of American citizens; provide a tax exemption for employee health insurance benefits for domestic partners, similar to the tax exemption on health benefits given to employees' married spouses; and grant access to Medicaid coverage for people with HIV who don't have AIDS.

"We are trying to assess the best legislative strategy for moving these bills," Stacy said. "But the key people who will be overseeing this in the administration are not in place yet," which has prevented gay advocacy groups from finalizing their plans.

Stacy and **Rea Carey, the Task Force's executive director, said they believe the consensus among nearly all gay rights advocacy groups is to insist that Congress move forward with a version of ENDA that includes protections for transgender persons.**

Gay and transgender activists became divided in 2007 when Democrats in the House of Representatives, led by House Speaker Nancy Pelosi (D-Calif.) and gay Rep. Barney Frank (D-Mass.), decided to vote on a version of the bill that excluded transgender protections. The two lawmakers said they determined that there weren't enough votes to pass a trans-inclusive bill and that keeping trans protections in the bill would result in its defeat.

The House passed a gay-only version of the bill that year, but the Senate never took up the measure. Capitol Hill observers have speculated that Senate leaders did not believe a trans-inclusive bill could clear the Senate and agreed to requests by gay and transgender activists to

put the measure on hold until 2009.

Frank told the Blade last month that a coalition of gay and transgender rights groups have made “good progress” in building support for a trans-inclusive ENDA in the year since the House passed the gay-only version of the bill, and he’s hopeful that enough support could be lined up to pass a trans-inclusive version of the bill next year.

Obama said during his run for the White House that he, too, supports a trans-inclusive version of the bill.

“It’s exciting that we will have a president who not only won’t threaten to veto the bill but who embraces it,” said Mara Keisling, executive director of the National Center for Transgender Equality.

Carey said the Task Force also would closely monitor the Obama administration’s proposed economic policies and related legislative proposals to make sure gay families aren’t excluded.

“We obviously have legislation we’ve been interested in passing for some time,” she said. “But we are part of a bigger picture of the challenges that are facing people in this country.

“The pocketbooks of lesbian, gay, bisexual and transgender people are also hurting.”

Carey said activists specializing in gay-related economic and tax issues have found that the Defense of Marriage Act, which defines marriage in federal law as the union of one man and one woman, has forced a number of federal agencies to deny tax-related benefits to same-sex couples that are automatically available to opposite-sex married spouses.

But some activists, including gays who worked on Obama’s presidential campaign, have suggested that it would be prudent to hold off on pushing for repeal of DOMA and overturning “Don’t Ask, Don’t Tell” during Obama’s first year in office.

They point to how President Clinton’s decision to propose lifting the military’s ban on gay service members in the first months of his presidency in 1993 led to a groundswell of opposition in Congress and from within the military. Political observers say the blowup nearly crippled Clinton’s efforts to push other legislative measures through Congress that year and resulted in Congress forcing Clinton to agree to “Don’t Ask, Don’t Tell.”

“The way you move forward is to get members of Congress to pass the first one or two bills,” Stacy said. “Then the next tier of bills that are more challenging to move forward can be addressed.”

Marriage rights?

Stacy and Carey acknowledged that missing from the list of gay-related bills that have been introduced in past years are efforts to provide federal marriage-related rights and benefits to same-sex couples joined by civil unions or domestic partnerships.

In explaining his opposition to same-sex marriage on religious grounds, Obama said during his presidential campaign that he supports providing same-sex couples with all of the rights and benefits that come with marriage. But he did not specify when or how he would achieve this as president.

Legal experts have said a federal-enabling law that recognizes civil unions or domestic partnerships performed by states would be necessary before the couples could receive the more than 1,000 federal rights and benefits that come with marriage.

Experts have also said that repealing DOMA would allow same-sex couples that marry in Massachusetts and Connecticut — the only two states that allow gay marriage — to receive federal rights and benefits of marriage.

But a DOMA repeal would not result in these rights and benefits automatically going to people in civil unions or domestic partnerships because the rights and benefits are restricted to those who are joined by federally recognized marriages, legal experts have said.

“The challenge of same-sex couple recognition is the complexity in its drafting,” Stacy said.

He and **Carey said their respective groups would consider looking into an enabling law to provide full rights and benefits to same-sex couples who can't marry, but they had no immediate plans for doing this.**