

Gay, Lesbian, Bisexual & Transgender Issues

Federal Legislation

The Human Rights Campaign, along with tens of thousands of advocates, works around the clock to lobby members of Congress on critical legislation that would greatly affect the lives of gay, lesbian, bisexual and transgender Americans.

Employment Non-Discrimination Act

Fairness in the workplace has been recognized as a fundamental right protected under federal law. Currently, federal law provides basic legal protection against employment discrimination on the basis of race, gender, religion, national origin or disability, but not sexual orientation or gender identity and gender expression.

The Local Law Enforcement Hate Crimes Prevention Act / Matthew Shepard Act

The Local Law Enforcement Hate Crimes Prevention Act / Matthew Shepard Act gives the Justice Department the power to investigate and prosecute bias-motivated violence by providing the department with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability.

The Military Readiness Enhancement Act

“Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass” — the current U.S. policy on gays in the military — is the only law in the country that forces people to be dishonest about their personal lives or be fired or possibly imprisoned.

The Domestic Partnership Benefits and Obligations Act

This bill would provide domestic partnership benefits to all federal civilian employees on the same basis as spousal benefits. These benefits, available for both same- and opposite-sex domestic partners of federal employees, would include participation in applicable retirement programs, compensation for work injuries and life and health insurance benefits.

Tax Equity for Health Plan Beneficiaries

Currently, the Internal Revenue Code excludes from income the value of employer-provided insurance premiums and benefits received by employees for coverage of an employee’s spouse and dependents, but does not extend this treatment to coverage of domestic partners or other persons who do not qualify as a “dependent” (such as certain grown children living at home who are covered under a parent’s plan or children who receive coverage through a grandparent or parent’s domestic partner).

Uniting American Families Act

Approximately 75 percent of the 1 million green cards or immigrant visas are issued to family members of U.S. citizens and permanent residents. However, the Immigration and Nationality Act’s current definition of “family” does not include same-sex partners.

Responsible Education About Life Act

The Responsible Education About Life Act would provide \$206 million per year in grants to states for the purpose of conducting comprehensive sexuality education programs.

Early Treatment for HIV Act

The Early Treatment for HIV Act would permit state Medicaid programs to cover low-income, HIV- positive Americans before they develop AIDS. The act would amend Title XIX of the Social Security Act to provide states with the option of covering low-income HIV infected individuals as “categorically needy.”

Appropriations for HIV/AIDS Programs

We must make combating HIV/AIDS a priority by harnessing all possible resources to prevent new infections, provide meaningful access to quality care and treatment, boost research to find a cure and address the global crisis.

<http://www.hrc.org/issues/index.htm>

http://www.hrc.org/laws_and_elections/4732.htm

Employment Non-Discrimination Act

H.R. 2015, H.R. 3685

The Problem

Qualified, hardworking Americans are denied job opportunities, fired or otherwise discriminated against for reasons that have nothing to do with their performance and abilities. Employment discrimination based on sexual orientation or gender identity and expression, whether such orientation is real or perceived, effectively denies qualified individuals equality and opportunity in the workplace. Those who experience this form of discrimination have no recourse under current federal law or under the Constitution as it has been interpreted by the courts.

Employment discrimination strikes at a fundamental American value – the right of each individual to do his or her job and contribute to society without facing unfair discrimination. Fairness in the workplace has been recognized as a fundamental right protected under federal law. Currently, federal law provides basic legal protection against employment discrimination on the basis of race, gender, religion, national origin or disability, but not sexual orientation or gender identity and gender expression.

What is the Employment Non-Discrimination Act, H.R. 2015?

H.R. 2015 is a federal bill that would address discrimination in the workplace by making it illegal to fire, refuse to hire or refuse to promote employees simply based on a person's sexual orientation or gender identity. It would reinforce the principle that employment decisions should be based upon a person's qualifications and job performance.

What is H.R. 3685?

Unlike H.R. 2015, H.R. 3685 would only bar discrimination based on sexual orientation, not gender identity.

What ENDA Does

Extends federal employment discrimination protections currently provided based on race, religion, sex, national origin, age and disability to sexual orientation and gender identity

Prohibits public and private employers, employment agencies and labor unions from using an individual's sexual orientation or gender identity as the basis for employment decisions, such as hiring, firing, promotion or compensation

Provides for the same procedures, and similar, but somewhat more limited, remedies as are permitted under Title VII and the Americans with Disabilities Act

Applies to Congress and the federal government, as well as employees of state and local governments

What ENDA Does Not Do

Cover businesses with fewer than 15 employees

Apply to religious organizations

Apply to the uniformed members of the armed forces (the bill doesn't affect the "Don't Ask, Don't Tell" policy)

Allow for quotas or preferential treatment based on sexual orientation or gender identity

Allow a "disparate impact" claim similar to the one available under Title VII of the Civil Rights Act of 1964. Therefore, an employer is not required to justify a neutral practice that may have a statistically disparate impact on individuals because of their sexual orientation or gender identity

Allow the imposition of affirmative action for a violation of ENDA

Allow the Equal Employment Opportunity Commission to collect statistics on sexual orientation or gender identity or compel employers to collect such statistics.

Apply retroactively

Motivated Crime

The importance of the LLEHCPA is that it provides a backstop to state and local law enforcement by allowing a federal prosecution if — and only if — it is necessary to achieve an effective, just result, and to permit federal authorities to assist in investigations. Federal support, in the form of grants for training or through direct assistance, will ensure all bias-motivated violence is adequately investigated and prosecuted, while at the same time ensuring state and local authorities are not overburdened.

Support for This Legislation is Overwhelming

The bill is endorsed by notable individuals and more than 230 law enforcement, civil rights, civic and religious organizations, including: President George H.W. Bush's attorney general, Dick Thornburgh; National Sheriffs' Association; International Association of Chiefs of Police; U.S. Conference of Mayors; Presbyterian Church; Episcopal Church; and the Parents Network on Disabilities. Poll after poll continues to show that the American public supports hate crimes legislation inclusive of sexual orientation, including a Kaiser Family Foundation poll released in November 2001 showing 73 percent of Americans supporting hate crimes legislation that includes sexual orientation.

What about State Laws?

In 31 states, it is legal to fire someone based on their sexual orientation. In 39 states, it is legal to do so based on gender identity.

What about Corporate America?

Partly due to HRC's efforts, non-discrimination policies covering gender identity continue to rise. For example, as of November 2007, over thirty percent of Fortune 500 companies include transgender people in their policies. This is more than 10 times the number that had such policies in 2001, when eight Fortune 500 companies had the policy. In addition, exactly 49 of the Fortune 50 companies include sexual orientation in their non-discrimination policies. Exxon Mobil Corp. is the only company in the Fortune 50 that does not. In fact, nearly 90 percent of companies in the Fortune 500 include sexual orientation in their non-discrimination policies as of November 2007.

What is the Current Status of the Bill?

Reps. Barney Frank, D-Mass.; Deborah Pryce, R-Ohio; Tammy Baldwin, D-Wis.; and Christopher Shays, R-Conn., introduced H.R. 2015, in the U.S. House of Representatives on April 24, 2007. On September 5, 2007, the Health, Employment, Labor and Pensions Subcommittee of the House Committee on Education and Labor held a hearing on H.R. 2015. Following that hearing, Rep. Frank and the House leadership determined that, unfortunately, there was insufficient support to pass a transgender-inclusive version of ENDA. Rep. Frank subsequently introduced a version of ENDA, H.R. 3685, that extends protections based on sexual orientation, but not gender identity. On October 18, 2007, the full Committee on Education and Labor voted, 27-21, to send H.R. 3685 to the full House for a vote. On November 7, 2007, the House passed H.R. 3685 by a vote of 235-184, the first time a version of ENDA has passed either chamber of Congress.

The Local Law Enforcement Hate Crimes Prevention Act / Matthew Shepard Act

H.R. 1592 / S. 1105

The Local Law Enforcement Hate Crimes Prevention Act / Matthew Shepard Act gives the Justice Department the power to investigate and prosecute bias-motivated violence by providing the department with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability.

The LLEHCPA / Matthew Shepard Act provides the Justice Department with the ability to aid state and local jurisdictions either by lending assistance or, where local authorities are unwilling or unable, by taking the lead in investigations and prosecutions of violent crime resulting in death or serious bodily injury that were motivated by bias. The LLEHCPA also makes grants available to state and local communities to combat violent crimes committed by juveniles, train law enforcement officers or to assist in state and local investigations and prosecutions of bias-motivated crimes.

Bias-motivated Violent Crime Affects an Entire Community

A hate crime occurs when the perpetrator of the crime intentionally selects the victim because of who the victim is. While violent hate crimes are a widespread and serious problem in our nation, it is not the frequency or number of violent hate crimes alone that distinguishes these acts of violence from other types of crime. A random act of violence resulting in injury or even death is a tragic event that devastates the lives of the victim and their family, but the intentional selection and beating or murder of an individual because of who they are terrorizes an entire community and sometimes the nation. For example, a 2006 Harris Interactive poll found that 64 percent of gays and lesbians are concerned about being the victim of a bias-motivated crime.

Bias-Motivated Violent Crime is a Pervasive Community Problem

Evidence indicates that hate crimes are under-reported; however, statistics show that since 1991 more than 100,000 hate crime offenses have been reported to the FBI, with 7,163 reported in 2005, the FBI's most recent reporting period.

Violent crimes based on race-related bias were by far the most common, representing 54.7 percent of all offenses for 2005. Violent crimes based on religion represented 17.1 percent, and ethnicity/national origin, 13.2 percent. Violent crimes based on sexual orientation constituted 14.2 percent of all hate crimes in 2005, with 1,017 reported for the year. While the FBI doesn't specifically collect data on hate crimes based on gender identity we know that all too often the transgender community is affected by some of the most horrific hate violence. The National Coalition of Anti-Violence Programs, a non-profit organization that tracks bias incidents against gay, lesbian, bisexual and transgender people, reported 1,985 incidents for 2005 from only 13 jurisdictions, compared to the 12,417 agencies reporting to the FBI in 2005.

The LLEHCPA / Matthew Shepard Act Gives Local Law Enforcement the Tools to Combat Violent Bias-

Protect First Amendment Rights

The LLEHCPA / Matthew Shepard Act protects the First Amendment rights of the accused by prohibiting the introduction of evidence of association or expression to prove that a crime has been committed, unless it specifically relates to the offense. The legislation does not punish, nor prohibit in any way, name-calling, verbal abuse or expressions of hatred toward any group, even if such statements amount to hate speech. It covers only violent criminal actions. During consideration of the bill, the U.S. House of Representatives Judiciary Committee explicitly noted that nothing in this legislation would prohibit the lawful expression of one's deeply held religious beliefs. To further ensure that there is no ambiguity on this point, an amendment offered by Rep. Artur Davis, D-Ala., was adopted that explicitly states that conduct protected under the First Amendment free expression and free exercise clauses are not subject to prosecution.

What is the Current Status of the Bill?

On May 3, 2007, the U.S. House of Representatives passed H.R. 1592 by a vote of 237 to 180, with 25 Republicans voting yes. The Senate is expected to vote on S. 1105 in the near future.

Both the U.S. Senate and House of Representatives have voted in favor of legislation to combat bias-motivated violence in prior Congresses. In the 109th Congress, the House of Representatives approved its hate crimes bill as an amendment on a bipartisan vote of 223 to 199. House and Senate votes were held in the 106th and 108th Congresses. In the 108th Congress, the Senate passed the measure by an overwhelming vote of 65 to 33, with 18 Senate Republicans voting yes, and the House approved it on a bipartisan vote of 213 to 186, with 31 Republicans voting yes.

The Military Readiness Enhancement Act

H.R. 1246

The U.S. Military: Where It's Illegal for Gay People to Be Honest

"Don't Ask, Don't Tell, Don't Pursue, Don't Harass" — the current U.S. policy on gays in the military — is the only law in the country that forces people to be dishonest about their personal lives or be fired or possibly imprisoned. This discriminatory policy hurts military readiness and national security while putting American soldiers fighting overseas at risk. As recently stated by John M. Shalikashvili, former chairman of the Joint Chiefs of Staff and a former supporter of "Don't Ask, Don't Tell," the lift of the ban is inevitable. "When that day comes, gay men and lesbians will no longer have to conceal who they are, and the military will no longer need to sacrifice those whose service it cannot afford to lose," Shalikashvili said.

The Military Readiness Enhancement Act remedies this discriminatory and unworkable policy and replaces "Don't Ask, Don't Tell" with a policy of non-discrimination. Rep. Martin Meehan, D-Mass., introduced MREA in the 109th U.S. House of Representatives by with 122 bipartisan co-sponsors. He reintroduced the bill (H.R. 1246) in the 110th Congress in February 2007 with 110 original co-sponsors.

"Don't Ask, Don't Tell" Poses Exorbitant Costs to the Military and the Nation

Nearly 800 specialists with critical skills have been fired from the U.S. military under DADT including 323 linguists, 55 of whom specialized in Arabic (Government Accountability Office report).

At least 65,000 lesbian, gay and bisexual Americans are already protecting our homeland (Urban Institute report). More than 10,000 have been discharged under DADT since the policy was implemented in 1993.

American taxpayers have paid between \$250 million and \$1.2 billion to investigate, eliminate and replace qualified, patriotic service members who want to serve their country but can't because expressing their sexual orientation violates DADT (GAO report). That money could be better spent on at least a dozen Blackhawk helicopters, armored plates for tanks and Humvees or Kevlar body armor for troops.

U.S. military forces cannot afford to lose any troops who can do their job, as evidenced by recent call-ups of the Army Reserve.

Americans Support Allowing Gays and Lesbians to Serve Openly

The vast majority of Americans support the right of service members to serve openly and honestly, and the majority of service members are comfortable serving alongside gay and lesbian troops. In addition, numerous allies in the war on terror allow gays and lesbians to serve openly and proudly.

Sixty-seven percent of civilians support allowing gays to serve openly (Annenberg 2004 survey). In 2003, Fox News reported 64 percent support, and the Gallup organization 79 percent, on a similar question.

Nearly three in four troops (73 percent) say they are personally comfortable in the presence of gays and lesbians (Zogby International & the Michael D. Palm Center 2006 study).

One in four U.S. troops who served in Afghanistan or Iraq knows a member of their unit who is gay. More than 55 percent of the troops who know a gay colleague said the presence of gays or lesbians in their unit is well-known by others (Zogby International). The DADT policy serves no purpose as troops already know and are comfortable serving alongside gays and lesbians.

All published Pentagon studies, including the 1993 Rand Report, conclude that there should be no special restrictions on service by gay personnel.

Twenty-four other nations, including Great Britain, Australia, Canada and Israel, already allow open service by gays and lesbians, and none of the 24 report morale or recruitment problems. Nine nations allowing open service have fought alongside American troops in Operation Iraqi Freedom. In addition, 12 nations allowing open service fought alongside U.S. troops in Operation Enduring Freedom.

Twenty-three of the 26 NATO nations allow gays and lesbians to serve openly and proudly. The United States, Turkey and Portugal are the only NATO nations that forbid gays and lesbians to serve openly in the armed services.

Federal CIA, FBI, Defense Intelligence Agency and Secret Service agents all serve proudly as openly gay and lesbian personnel fighting the war on terrorism.

Countless gay, lesbian and bisexual Americans have served and will continue to serve in the U.S. military with distinction. The only question is whether they will have to lie about their sexual orientation to do so. Since enactment of the "Don't Ask, Don't Tell" policy, numerous gay and lesbian troops have served openly while pending discharge with no effect on unit performance, readiness, cohesion or morale. Moreover, U.S. military personnel are already serving side-by-side with openly gay service members — with no identifiable negative effects — in and from countries throughout the world. Former Defense Secretary William Cohen agrees — the ban is discriminatory, and "We're hearing from within the military what we're hearing from within society — that we're becoming a much more open, tolerant society for diverse opinions and orientation." We must end this discriminatory policy sooner rather than later and ensure that the U.S. military can recruit and retain the best and the brightest troops regardless of their sexual orientation.

What is the Current Status of the Bill?

Rep. Marty Meehan, D-Mass., introduced the Military Readiness Enhancement Act (H.R. 1246) on Feb. 28, 2007.

The Domestic Partnership Benefits and Obligations Act

Support Equal Treatment in Benefits for Federal Employees

Background

The Human Rights Campaign, the nation's largest gay, lesbian, bisexual and transgender political organization, strongly supports the Domestic Partnership Benefits and Obligations Act. This bill would provide domestic partnership benefits to all federal civilian employees on the same basis as spousal benefits. These benefits, available for both same- and opposite-sex domestic partners of federal employees, would include participation in applicable retirement programs, compensation for work injuries and life and health insurance benefits.

Corporate America is Leading the Way

By offering health benefits to the domestic partners of federal employees, this bill will bring employment practices in the federal government in line with those of America's largest and most successful corporations. The majority of Fortune 500 companies provide domestic partner benefits to their employees. Many of America's leading companies, including the "Big Three" automakers, defense giant Raytheon, IBM, Microsoft, Shell Oil, Walt Disney, Fannie Mae, Citigroup, Xerox, Time Warner and United and American Airlines offer these benefits. In addition, 13 states and 201 local governments offer their public employees domestic partnership benefits. These include cities in every part of the country, from Los Angeles to New York City, to Madison, Wis., and Iowa City.

Equal Pay for Equal Work

In addition, by offering domestic partnership benefits, the federal government would not only improve the quality of its workforce, but also demonstrate its commitment to fairness and equality for all Americans. Benefits comprise a significant portion of all employee compensation. By not offering domestic partnership benefits to its employees, the federal government is not providing equal pay for the equal work of these employees. The legislation would also require domestic partners to have the same obligations under federal law.

Majority Support from the American Public

A May 2000 poll conducted by The Associated Press found that a majority of Americans favor the extension of health insurance coverage to same-sex partners. In addition, this legislation has been endorsed by the American Federation of Government Employees; the American Federation of State, County and Municipal Employees; Harvard University; the National Treasury Employees Union; and the United Church of Christ.

Conclusion

It is time for the federal government to have the ability to retain the best employees, through giving equal treatment to its gay, lesbian, bisexual and transgender and other unmarried employees in committed relationships.

What is the Current Status of the Bill?

In the 109th Congress, Rep. Barney Frank, D-Mass., introduced the Domestic Partnership Benefits and Obligations Act on July 13, 2005, in the U.S. House of Representatives, and Sens. Joseph Lieberman, D-Conn., and Gordon Smith, R-Ore., introduced the bill in the Senate on Sept. 27, 2006. The Senate bill had 17 co-sponsors while the House companion bill had 82 co-sponsors.

This legislation will be reintroduced in the 110th Congress.

How the Domestic Partnership Benefits and Obligations Act Would Work

Who's eligible?

Same- or opposite-sex couples who:

- Include a federal government employee, excluding members of the armed forces, and his/her domestic partner;

- Live together in a committed, intimate relationship; and

- Are responsible for each other's welfare and financial obligations.

How to apply

Submission of affidavit of eligibility for benefits with the Office of Personnel Management, certifying that the employee and domestic partner meet necessary criteria, as provided in the act.

Benefits available to domestic partners of government employees

- Participation in Civil Service Retirement program, if applicable, similar to spouses of government employees;

- Participation in Federal Employees' Retirement program, if applicable, similar to spouses;

- Life insurance, similar to spouses;

- Health insurance, similar to spouses; and

- Compensation for work injuries, similar to spouses.

Dissolution of domestic partnership

Because of death of government employee: domestic partner is deemed a spouse for purposes of receiving benefits.

Because of break-up of the relationship: results in termination of benefits received under the act, except for continuation of health benefits for 60 days, where domestic partner pays for benefits as under COBRA.

Upon dissolution, whether by death or break-up, employee or domestic partner must file statement of dissolution of the domestic partnership within 30 days of termination.

Tax Equity for Health Plan Beneficiaries

The Tax Equity for Domestic Partner and Health Plan Beneficiaries Act (S. 1556) and The Tax Equity for Health Plan Beneficiaries Act (H.R. 1820)

Provides Uniform Tax Treatment for Employer-Provided Health Insurance

Background

In growing numbers, employers across the country have made the business decision to provide health benefits to domestic partners of their employees. As of January 2007, 53 percent of Fortune 500 companies (265) were providing such coverage. This is more than a twelve-fold increase from 1995 and underscores a clear trend in the American workplace. Federal tax law has not kept up with the corporate changes in this area, however, and employers that offer such benefits and the employees who receive them are taxed inequitably.

The Issue

Currently, the Internal Revenue Code excludes from income the value of employer-provided insurance premiums and benefits received by employees for coverage of an employee's spouse and dependents, but does not extend this treatment to coverage of domestic partners or other persons who do not qualify as a "dependent" (such as certain grown children living at home who are covered under a parent's plan or children who receive coverage through a grandparent or parent's domestic partner). In addition, when calculating payroll tax liability, the value of non-spouse, non-dependent coverage is included in the employee's wages, thereby increasing both the employee's and employer's payroll tax obligations. An employee of median income level who receives employer-provided major medical coverage of average cost for himself and a domestic partner faces an annual tax bill of \$4,710 in income and payroll taxes, \$1,555 (or nearly 50 percent) more than that paid by a similarly situated co-worker with spousal coverage. The current inequitable tax regime also places significant administrative burdens on employers. It requires employers to calculate the portion of their healthcare contribution attributable to a non-spouse, non-dependent beneficiary and to create and maintain a separate system for the income tax withholding and payroll tax obligations for employees using such coverage.

The Solution

Equalize tax treatment for employer-provided health coverage for domestic partners and other non-spouse, non-dependent beneficiaries. Sen. Gordon Smith, R-Ore., and Rep. Jim McDermott, D-Wash., have introduced legislation (S. 1556 / H.R. 1820) that would end the federal tax inequities for employer-sponsored health coverage provided to domestic partners and other non-spouse, non-dependent beneficiaries, as detailed below.

Exclusion of employer-provided health insurance. The value of employer-provided health insurance for a domestic partner or other non-dependent, non-spouse beneficiary would be excludible from the income of the employee if such person is an eligible beneficiary under the plan. Employers would retain the current flexibility to establish their own criteria for demonstrating domestic partner status. In a corresponding change, the cost of health coverage for domestic partners or other non-spouse, non-dependent beneficiaries of self-employed individuals (e.g., small business owners) would be deductible to the self-employed person.

Pre-tax cafeteria plan elections. The legislation would make clear that employees paying for health coverage on a pre-tax basis through a cafeteria plan would be able to do so with respect to coverage for a domestic partner or other non-spouse, non-dependent beneficiary.

Voluntary Employees' Beneficiary Associations. Many employers, particularly in the collectively bargained context, use tax-exempt VEBAs to provide health coverage. Today, VEBAs are prohibited from providing more than de minimis benefits to a domestic partner or other non-spouse, non-dependent beneficiary. The legislation would permit a VEBA to provide full benefits to non-spouse, non-dependent beneficiaries without endangering its tax-exempt status.

Health-related savings accounts. In contrast to current law, employees would be permitted to reimburse medical expenses of a domestic partner or other non-spouse, non-dependent beneficiary from a health reimbursement arrangement or health flexible spending arrangement.

Payroll tax improvements. The value of employer-provided health coverage for a domestic partner or other non-dependent, non-spouse beneficiary would be excluded from the employee's wages for purposes of determining the employee's and employer's Federal Insurance Contributions Act and Federal Unemployment Tax Act payroll tax obligations.

What is the Current Status of the Bill?

Rep. Jim McDermott, D-Wash., introduced the Tax Equity for Health Benefits Equity Act (H.R. 1820) in the U.S. House of Representatives on March 29, 2007. Sen. Gordon Smith, R-Ore., introduced the Senate version, the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act (S. 1556), on June 7, 2007.

Uniting American Families Act

H.R. 2221 / S.1328

Background

Under the U.S. Immigration and Nationality Act, U.S. citizens and legal permanent residents may sponsor their spouses (and other immediate family members) for immigration purposes. But same-sex partners of U.S. citizens and permanent residents are not considered "spouses" and their partners cannot sponsor them for family-based immigration. Consequently, many same-sex binational couples are kept apart or torn apart. And since immigration is regulated on a federal level, even binational couples who have entered into marriages, civil unions or other legally recognized relationships in their home states still cannot sponsor their spouses for immigration purposes. The Uniting American Families Act (formerly the Permanent Partners Immigration Act) would help to remedy this injustice.

Approximately 75 percent of the 1 million green cards or immigrant visas are issued to family members of U.S. citizens and permanent residents. However, the Immigration and Nationality Act's current definition of "family" does not include same-sex partners. Therefore, thousands of same-sex couples are separated or live in constant fear of being stopped by officials who demand to see documentation and threaten detention. In some cases, same-sex partners face prosecution by the Immigration and Naturalization Service – including hefty fines and deportations. U.S. citizens are sometimes left with no other choice but to immigrate with their partners to a country with more fair-minded immigration laws.

Hospitable Laws in other Nations

The United States lags behind the following 19 countries that recognize same-sex couples for immigration purposes: Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, Switzerland and the United Kingdom.

One of the fundamental principles of immigration law and policy is the notion of family unification, which allows U.S. citizens and legal permanent residents to sponsor their spouses (and other family members) for immigration purposes. Unfortunately, same-sex couples committed to spending their lives together are not recognized as "families" under current federal law, including the U.S. immigration law.

How Will the Measure Work?

Once the measure is enacted, binational same-sex couples will have to meet the same requirements as binational married couples. Some requirements include providing proof of the relationship – including affidavits from friends and family or evidence of financial support.

The UAFA will apply the same standards to same-sex couples that the United States applies to opposite-sex couples where one member is seeking to bring a foreign partner into the country. As with current immigration laws for married couples, the UAFA would impose harsh penalties for fraud, including up to five years in prison and as much as \$250,000 in fines. In addition, if the partnership is dissolved in less than two years, the legal immigrant status of the partner would be revoked.

Under the measure, a permanent partner is any person 18 or older who is:

In a committed, intimate relationship with another adult 18 or older in which both parties intend a lifelong commitment;

Financially interdependent with that other person;

Not married to, or in a permanent partnership with, anyone other than that other person; and

Unable to contract with that person a marriage cognizable under the Immigration and Nationality Act.

What is the Current Status of the Bill?

UAFA was introduced in the 110th Congress in both houses on May 8, 2007. The U.S. House of Representatives bill (H.R. 2221) is sponsored by Rep. Jerrold Nadler, D-N.Y., had 68 members of Congress as original co-sponsors. Sen. Patrick Leahy, D-Vt., introduced the Senate version of the bill (S. 1328) on the same date.

Responsible Education About Life Act

The Responsible Education About Life Act would provide \$206 million per year in grants to states for the purpose of conducting comprehensive sexuality education programs.

What is Comprehensive Sexuality Education?

Comprehensive sexuality education is a program that is age-appropriate and medically accurate; does not teach or promote religion; teaches that abstinence is the only sure way to avoid pregnancy and sexually transmitted diseases; stresses the value of abstinence without ignoring those young people who have had sexual intercourse; provides comprehensive information about the health benefits and side effects of all contraceptives and barrier methods as they relate to both pregnancy prevention and risk reduction for STDs, including HIV/AIDS; encourages family communication about sexuality; teaches negotiation skills for young people; and teaches young people how alcohol and drug use can affect responsible decision-making.

Background

No federal funding stream currently exists for comprehensive sexuality education. However, there are three separate federal funding streams for abstinence-only-until-marriage programs totaling almost \$168 million in fiscal year 2005 (Community Based Abstinence Education program; Title V Section 510(b) of the Social Security Act, authorized with the 1996 Welfare Reform Law; and the Adolescent Family Life Act (Title XX of the Public Health Service Act)). President Bush requested \$206 million for these programs in fiscal year 2006. Under the federal definition of abstinence education, programs accepting these funds are prohibited from discussing contraceptives except in the context of failure rates.

Why the REAL Act is Needed

Comprehensive sexuality education — medically accurate, age-appropriate education that includes information about both contraception and abstinence — has been found to be effective in delaying the onset of sexual intercourse, reducing the number of sexual partners and increasing contraception and condom use.¹ No such findings exist for federally funded abstinence-only-until-marriage programs.

Public Opinion

A vast majority of adults support comprehensive sexuality education and believe young people should be given information about how to protect themselves from unintended pregnancies and sexually transmitted diseases. In fact, only 10 percent of the voting public says they want abstinence-only curricula in our schools.²

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What is the Current Status of the Bills?

Sen. Frank Lautenberg, D-N.J., and Rep. Barbara Lee, D-Calif., introduced the REAL Act in the U.S. Senate and House of Representatives on March 22, 2007.

In the 109th Congress, the measure was introduced in the Senate by Lautenberg and had 11 co-sponsors. The House bill was introduced by Lee and had 136 co-sponsors.

Early Treatment for HIV Act

S. 860

The Early Treatment for HIV Act would permit state Medicaid programs to cover low-income, HIV- positive Americans before they develop AIDS. The act would amend Title XIX of the Social Security Act to provide states with the option of covering low-income HIV infected individuals as “categorically needy.” States taking advantage of this option would be provided with an enhanced federal Medicaid match. The legislation is very similar to the successful effort in 2000 that gave states the option to provide Medicaid coverage to women diagnosed with breast or cervical cancer through a federally funded program.

Current Medicaid Coverage Inadequately Addresses HIV/AIDS

Currently, childless adults living with HIV generally only qualify for Medicaid coverage once they become eligible for Supplemental Security Income. Because an individual is not eligible for SSI until he or she becomes disabled, a person with asymptomatic HIV infection is not eligible for Medicaid until he or she has progressed to full-blown AIDS. Since HIV-positive individuals do not qualify for Medicaid, many lack the ability to receive medical care and medicine to help slow the progression of the HIV and to prevent the onset of opportunistic infections.

Early Coverage Will Improve Quality of Life and Slow Infection Rates

Treating those who are HIV-positive early in the progression of the disease provides numerous benefits. Providing therapy earlier keeps individual viral loads suppressed and delays the immune system weakening that permits opportunistic infections. Additionally, new HIV infections will decrease because of the lower viral loads, the AIDS Drug Assistance Program will be able to provide care to more individuals with HIV because of related savings, and most importantly, the quality of life for countless HIV-positive individuals will be improved. ETHA could help thousands of HIV-positive individuals gain early access to treatment to help them live longer, happier and more productive lives. Simply put, providing coverage earlier, rather than later, is the right thing to do.

ETHA Could Save Taxpayers Money by Reducing Long-Term Healthcare Costs

ETHA could realize federal savings of \$31.7 million over a 10-year period.¹ Since early treatment for HIV-positive individuals would both delay their need for more expensive forms of treatment and delay the time at which they would become medically disabled, enacting ETHA could produce savings for the SSI, Social Security Disability Insurance Savings, Medicaid and Medicare programs. Additionally, ETHA would lessen the strain on other federal AIDS programs, such as those funded by the Ryan White CARE Act.

What is the Current Status of the Bill?

Sens. Gordon Smith, R-Ore., and Hillary Clinton, D-N.Y., reintroduced ETHA on March 13, 2007. In the 109th Congress, the measure was introduced by Smith and had 38 co-sponsors.

Appropriations for HIV/AIDS Programs

Increased Appropriations to Fight HIV/AIDS

The Human Rights Campaign is deeply concerned about years of inadequate funding for the Ryan White Comprehensive AIDS Resources Emergency Act and other federally funded HIV/AIDS programs. HIV/AIDS remains a national crisis, particularly among gay and bisexual men and communities of color. We must make combating HIV/AIDS a priority by harnessing all possible resources to prevent new infections, provide meaningful access to quality care and treatment, boost research to find a cure and address the global crisis.

The Ryan White CARE Act

The Ryan White CARE Act provides access to life-saving treatment and care for more than half a million low-income Americans with HIV/AIDS. However, years of inadequate funding has stretched the program considerably as it struggles to serve more and more beneficiaries with the same amount of resources. Many states have been forced to institute cost-containment measures such as waiting lists and capped drug formularies. The AIDS Drug Assistance Program has particularly experienced severe strain in recent years. Congress must appropriate adequate resources to this vital program which provides a lifeline to so many Americans with HIV/AIDS.

Prevention Efforts

Funding for HIV prevention at the Centers for Disease Control and Prevention was cut by more than \$14 million in the most recently adopted Labor / Health and Human Services / Education appropriations bill. At the same time, Congress yet again increased funding for unproven abstinence-only-until-marriage sex education programs, which the Bush administration has restricted to discussing marriage only as the union between a man and a woman. With alarmingly high rates of HIV among young gay men, this anti-gay restriction illustrates that these programs are not driven by public health concerns, but rather by narrow right-wing ideology. HRC strongly advocates for increases in funding for HIV-prevention programs based on proven science and not anti-gay ideology.

Research

In the most recently passed Labor / Health and Human Services / Education appropriations bill, Congress also failed to sufficiently fund HIV/AIDS research, giving the National Institutes of Health its smallest percentage increase — less than 1 percent — since 1970 and cutting \$15 million from the Office of AIDS Research. As people living with HIV/AIDS around the world hope for the development of microbicides and other crucial preventative and treatment options — and one day a cure — cuts to AIDS research and NIH mean that new funding for this crucial research will be extremely limited. HRC strongly advocates for significant increases to the Office of AIDS Research at the NIH so that our nation will continue to lead the world in efforts to find a cure for AIDS.

Housing Opportunities for People with AIDS (HOPWA)

Approximately one-third to one-half of Americans with AIDS at any given time are either homeless or at imminent risk of homelessness. Recent research indicates that individuals with housing are much more likely to adhere to their complex care regimens and are far less likely to transmit HIV to someone else. The HOPWA program provides critical funding to cities and states to address the housing crises in their communities among those with HIV/AIDS and provides a stabilizing force to stem the spread of infection. Unfortunately, as demand for these vital funds has increased, the resources have not. HRC strongly encourages Congress to appropriate increases to the HOPWA program.

Global AIDS

The Bush administration and Congress have made significant steps in raising awareness and dedicating funding to fight the global AIDS pandemic through donations to the Global Fund for AIDS, Malaria and Tuberculosis and the creation of the President's Emergency Plan for AIDS Relief (PEPFAR). However, much remains to be done. Current law mandates that 33 percent of PEPFAR prevention funds must be dedicated to abstinence-only-until-marriage programs. In a study released last April, the Government Accountability Office found that this restriction hindered the ability of HIV/AIDS organizations to respond to local prevention needs. Instead of outsourcing our failed prevention policies overseas, U.S. global AIDS policy should allow local organizations flexibility to provide the most effective HIV-prevention programs possible. HRC urges increases to global AIDS relief funding free of ideological riders.