

Will Congress take up a comprehensive LGBT rights bill?



LGBT advocates are calling for the introduction of a comprehensive LGBT bill in a subsequent Congress (Blade file photo by Michael Key).

A new idea is gaining traction for advancing LGBT rights after controversy over the stalled Employment Non-Discrimination Act: a comprehensive federal non-discrimination bill.

As several LGBT groups have announced they would no longer support ENDA because of its broad religious exemption, the idea of a comprehensive bill stands in contrast to ENDA because it would address

discrimination in areas other than the singular issue of employment.

It's for that reason — and not just the religious exemption — that the New York-based LGBT group Queer Nation has urged for the rejection of ENDA in favor of a comprehensive bill that would institute non-discrimination coverage in a plethora of categories.

Andrew Miller, a member of Queer Nation, said in a phone interview with the Washington Blade that his organization doesn't back any version of ENDA — either with or without the expanded religious exemption.

“If you believe, as I do, that LGBT Americans are equal in every way to our fellow Americans, then it makes sense to pass legislation that affords the same civil protections as our fellow Americans,” Miller said. “I think that strategy of incrementalism behind ENDA, telegraphs or signals that LGBT Americans are not equal to our fellow Americans. If we want full equality because we know that we are equal in every way to our fellow citizens, then that's what we should be demanding.”

The content of a comprehensive bill isn't clear as the idea is just beginning to take hold, but the general sense is the legislation would aim to eliminate anti-LGBT discrimination across the board and would be introduced in the subsequent Congress. The presence of an employment component would be contingent on the likely event that ENDA won't pass the U.S. House this year before Congress adjourns.

But Miller said his organization has a more concrete view of what issues should be included in the legislation: housing, employment, public accommodations, credit and federal programs.

“I think that what it would be is a bill, a law, that would afford the same civil rights protections that all other Americans have to LGBT Americans,” Miller said. “Those protections are from discrimination in not just employment, but in housing and in public accommodations, in housing and credit and federal programs. Those are the categories that are covered by the Civil Rights Act of 1964. Gay people should be afforded all those protections themselves.”

Many national LGBT groups have already endorsed the idea of a comprehensive LGBT bill to address discrimination, including the Human Rights Campaign and Freedom to Work. The categories that Queer Nation enumerated (with the exception of federal programs) were along the lines of the categories that HRC President Chad Griffin envisioned for the legislation in an op-ed published in [Buzzfeed](#) that also explained the organization's continued support for ENDA.

Ian Thompson, legislative representative for the American Civil Liberties

Union, said his organization also backs the idea of a comprehensive bill as a means to institute “explicit, effective and, above all, equal protections in federal law” for LGBT people.

“The concept of a more comprehensive bill is something that we are supportive of, but what we want to ensure at the end of the day is that LGBT people have explicit, effective and, above all, equal non-discrimination protections in federal law,” Thompson said.

The idea of a comprehensive LGBT bill as opposed to an incrementalist strategy isn’t new. Gay Rep. Jared Polis (D-Colo.) has said for years he was considering an omnibus LGBT bill that would act as a symbolic measure. The grassroots group GetEQUAL also has called for a full civil rights bill for LGBT people.

Heather Cronk, co-director of GetEQUAL, said her organization has been speaking out for the need to pass comprehensive LGBT legislation since its inception.

“For too long, our movement has fought for piecemeal legislation,” Cronk said. “It isn’t what we need; it isn’t what we deserve. We’ve been talking about some kind of larger civil rights bill since we began four years ago. Whether that looks like an omnibus bill, or a collection of smaller bills that is passed at the same time, we don’t really know what it looks like. We just want to make sure that we’re fighting for it and putting that on the table.”

In an attempt to build support for a comprehensive bill, Queer Nation has called on House Minority Leader Nancy Pelosi (D-Calif.) and the eight openly LGB members of Congress to endorse the idea.

Drew Hamill, a Pelosi spokesperson, confirmed his boss supports the idea of a comprehensive bill in response to an inquiry from the Washington Blade.

“She supports such legislation and would want to work closely with the leading LGBT national organizations to see it become a reality in the next Congress,” Hammill said.

Spokespersons for four of the eight openly LGB members of Congress — Reps. David Cicilline (D-R.I.), Mark Takano (D-Calif.), Sean Patrick Maloney and Mark Pocan (D-Wis.) — said the lawmakers also support the idea of a comprehensive bill.

Scott Overland, a Polis spokesperson, said his boss “is committed to passing legislation to ensure that LGBT Americans have equal protection under the law in all of these dimensions.” He didn’t immediately respond

to a follow-up question on whether that means support for a singular, comprehensive bill.

The remaining three — Kyrsten Sinema (D-Ariz.), and Mike Michaud (D-Maine) as well as Sen. Tammy Baldwin (D-Wis.) — didn't respond to the Blade's request for comment. Michaud is in

the middle of a campaign to become the next governor of Maine.

The process for passing a comprehensive LGBT bill in Congress would be different than efforts to pass other bills with a singular focus because such legislation would likely be referred to multiple committees. That would be similar to the process leading to the passage of health care reform legislation, which was approved by five different committees in the House and Senate before being combined into one piece of legislation for President Obama to sign.

In the Senate, the piece on employment and education would likely mean a referral to the Health, Education, Labor & Pensions Committee and the piece on public accommodations would mean a referral to the Judiciary Committee, while the component on credit may mean a referral to the Finance Committee and the component on federal programs may send the bill to the Homeland Security & Governmental Affairs Committee.

Assuming the legislation introduced is favorable enough for lawmakers to seek to advance the bill, the most challenging piece may be credit because it's an area where the history of discrimination against LGBT people isn't as widely known.

Thompson said he would be "not at all surprised" if a comprehensive bill would be referred to multiple committees, dismissing the notion that referrals would hamper passage.

"I think what would be the first, important step in that is doing the education and the outreach to congressional offices to make sure that they have a very good understanding about why a proposal like this is needed, why its time has come," Thompson said.

Another possible approach to enacting comprehensive legislation would be amending the Civil Rights Act of 1964 — which provides protections based on race, color, religion, sex or national origin — to include the

categories of sexual orientation and gender identity. Such a move would ensure the religious exemption to discriminate against LGBT people would be the same as it is for other categories of people.

According to some LGBT advocates familiar with ENDA, other civil rights groups are wary of amending the Civil Rights Act of 1964 to include LGBT people because it would make the historic law seem too easy to change. Moreover, amending that law wouldn't institute non-discrimination protections for LGBT people in housing because those protections are in the Fair Housing Act of 1968.

Ayofemi Kirby, a spokesperson for the Congressional Black Caucus, said she "can't speak" to whether lawmakers in her caucus would support that idea because that discussion hasn't taken place, but noted a number of members of her caucus support ENDA.

A more likely scenario for the bill would be an amalgamation of other LGBT non-discrimination bills combined into one piece of legislation.

For example, the employment piece could consist of the version of ENDA with the narrower religious exemption that Polis introduced as a resolution before the House Rules Committee following controversy over the bill in a possible attempt to start a discharge petition on the legislation. The piece related to education may be the Student Non-Discrimination Act, legislation that would prohibit harassment and discrimination against students in K-12 schools.

Another question is whether President Obama would make the push in the final years of his administration to pass a comprehensive bill. Despite the progress seen on LGBT issues under his administration and strongly articulated support for legislation to end discrimination in the workforce, Obama has made no announcement in support of a comprehensive bill.

White House Press Secretary Josh Earnest declined to commit support when the Washington Blade asked about such legislation earlier this month, saying, "We'd consider it...but not I'm personally familiar with it."

GetEQUAL's Cronk said an endorsement from Obama of a comprehensive LGBT bill "would be helpful" in generating additional support for the bill.

"I think that would be a very core part of his legacy would be to go beyond advocating for things that other people have put on the table," Cronk said. "I think it would be very powerful for President Obama to say, 'Look, I endorse full equality for LGBT people, and this is what I mean by that.'"

Still, not every LGBT organization is offering a ringing endorsement of a comprehensive bill as the way to advance LGBT rights.

Stacey Long Simmons, policy and government affairs director for the National Gay & Lesbian Task Force, was non-committal about backing a singular bill, but insisted the goal should be comprehensive protections.

“While tackling employment discrimination is extremely important, it is but one piece of a much bigger, more wide-ranging set of changes needed to deliver real freedom and justice for all LGBTQ people,” Simmons said. “These changes include ending discrimination in housing, health care, education and in our democracy. In other words, a 360 approach that helps to create a nation where we all can equally access the promise of America. We care less about whether it’s done in one comprehensive bill than getting it done comprehensively.”

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