



Ted Kennedy pushing non trans inclusive ENDA

April 2, 2008
by ANDREW MIGA

Sen. Edward M. Kennedy is jumping into the middle of an uproar within the gay community whose causes he has long championed.

The Massachusetts Democrat is leading a push in the Senate for a federal ban on job bias against gays, lesbians and bisexuals — but not transsexuals, cross-dressers and others whose outward appearance doesn't match their gender at birth.

"We will strongly oppose it," said Roberta Sklar of the National Gay and Lesbian Task Force. "Leaving transgender people out makes that a flawed movement."

The House in November approved the bill, written by openly gay Rep. Barney Frank, D-Mass., despite strong protests from many gay rights advocates that it didn't cover transgender workers.

"It was made very clear in the fall that most LGBT (lesbian, gay, bisexual and transgender) organizations, the vast majority of LGBT organizations, do not want Congress to shove a civil rights bill down our throat that we don't want," said Mara Keisling, executive director of the National Center for Transgender Equality.

Some gay rights groups, including the Human Rights Campaign, supported Frank's bill and the decision not to risk its rejection by Congress by insisting on immediate transgender protections as well.

"We will continue this work until all members of our community no longer fear being fired for who they are," said Brad Luna, Human Rights Campaign communications director.

Kennedy said Senate approval of the bill could pave the way for extending protections to transgender workers next year, when he hopes Democrats will increase their numbers in Congress and a Democratic president supporting gay rights will be in the White House.

"The fact is that the House of Representatives has taken action," Kennedy said in an interview Tuesday with The Associated Press. "The best opportunity for progress is ... to follow along on the action of the House of Representatives, and then look down the road to a new day after we have a good Democratic Congress and a Democratic president."

Kennedy expects an "uphill fight" in the narrowly divided Senate, where 60 votes rather than a simple majority would be needed to overcome expected GOP stalling tactics.

Kennedy and Senate Majority Leader Harry Reid, D-Nev., who supports the bill, are working on the timing for bringing the bill to the floor.

The bill would make it illegal for employers to make decisions about hiring, firing, promoting or paying an employee based on sexual orientation. There are exemptions for churches and the military.

The decision by House Democratic leaders last fall to scuttle protections based on gender identity created sharp splits in the party and among gay rights activists.

Frank was harshly criticized by many longtime allies in the gay rights community over the stripped-down bill after he urged them not to let the dispute over transgender workers doom an important civil rights gain. He pledged to continue to fight for protection for transgender workers.

Supporters said the bill would have failed in the House if the transgender protection had been included. But the transgender community and its supporters were furious. Keisling's group has already approached Kennedy.

"We've expressed to Senator Kennedy's office our disappointment and opposition to his idea to move forward," Keisling said. "We're always working and talking with his office and we'll see what happens."

It is unclear whether the Senate fight will be as intense.

"My concern would be the Democratic leadership in the Senate is a bit reticent in stepping into what is a minefield," said Patrick Sammon, president of Log Cabin Republicans. The nation's largest gay Republican group is lobbying GOP lawmakers for support.

A veto from President Bush is expected if the proposal does pass the Senate. The White House has cited constitutional concerns and said the proposal could trample religious rights.

Conservative critics of the bill say it could undermine the rights of people who oppose homosexuality for religious reasons and lead to a wave of dubious discrimination lawsuits. Some say gay rights advocates are exaggerating the extent of anti-gay discrimination to boost their political agenda.

"It's offering special protection to a group that isn't normally seen as disadvantaged," said Tom McClusky, vice president of government affairs at the socially conservative Family Research Council.

Federal law bans job discrimination based on factors such as race, gender and religion.

Thirteen states plus the District of Columbia have workplace anti-discrimination laws covering both sexual orientation and gender identity. Seven states have anti-discrimination laws covering sexual orientation, but not gender identity.

On the Net:

Information on the bill, H.R. 3685: <http://thomas.loc.gov>