

Lambda Legal



Lambda Legal's Analysis of Stripped Down Version of ENDA: Gender Identity Protections Gone and Inadequate Protections for Lesbians, Gay Men and Bisexuals

'You can't be fired for being lesbian, gay or bisexual, but you can be fired if your boss thinks you fit their stereotype of one.'

(New York, October 1, 2007) — Lambda Legal's preliminary assessment of the revised version of the Employment Non-Discrimination Act shows the bill to be riddled with loopholes in addition to failing altogether to protect transgender people against discrimination.

"Leaving out protections for transgender people is unacceptable, and passing a bill riddled with loopholes will make it harder to achieve equality on the job," said Kevin Cathcart, Executive Director at Lambda Legal. "You can't be fired for being lesbian, gay or bisexual but you can be fired if your boss thinks you fit their stereotype of one."

"After working together for so many years on a bill to provide protections for the LGBT community on the job — we can do better than this," Cathcart added.

Preliminary Analysis Summary:

- As a point of clarity for the community: The recent version is not simply the old version with the transgender protections stripped out —but rather has modified the old version in several additional and troubling ways.
- In addition to the missing vital protections for transgender people on the job, this new bill also leaves out a key element to protect any employee, including lesbians, gay men and bisexuals who may not conform to their employer's idea of how a man or woman should look and act. This is a huge loophole through which

employers sued for sexual orientation discrimination can claim that their conduct was actually based on gender expression, a type of discrimination that the new bill does not prohibit.

- This version of ENDA states without qualification that refusal by employers to extend health insurance benefits to the domestic partners of their employees that are provided only to married couples cannot be considered sexual orientation discrimination. The old version at least provided that states and local governments could require that employees be provided domestic partner health insurance when such benefits are provided to spouses.
- In the previous version of ENDA the religious exemptions had some limitations. The new version has a blanket exemption under which, for example, hospitals or universities run by faith-based groups can fire or refuse to hire people they think might be gay, lesbian or bisexual.

Lambda Legal has long worked on employment discrimination issues and has represented clients who have faced discrimination or harassment at work based on their sexual orientation or gender identity.

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Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.

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