


2010

Legislative Updates

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Recommended Citation

Chado, Cheryl. "Legislative Updates." *The Modern American*, Spring 2010, 60-62

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Keywords

Fair Election Now Act, Don't Ask Don't Tell policy, Domestic Partnership Benefits and Obligations Act of 2009

LEGISLATIVE UPDATES

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S. 1102: “Domestic Partnership Benefits and Obligations Act of 2009”

The Domestic Partnership Benefits and Obligations Act of 2009 (“DPBO”) provides that federal employees and their domestic partners will be entitled to the same benefits and obligations as married federal employees and their spouses, regardless of the gender of the parties.¹ The Act defines a domestic partner as “an adult unmarried person living with another adult unmarried person of the same sex in a committed, intimate relationship,” and requires employees to file a certificate of eligibility as to their relationship.² Through this Act, domestic partners will be able to receive health insurance, retirement and disability benefits and plans, emergency and medical leave, and any other benefit provided by the federal government to any employee.³

The DPBO reflects the sentiments of many Americans who support the inclusion of same sex couples in health insurance coverage benefits.⁴ This opinion is also felt by over fifty percent of Fortune 500 companies who also provide benefits to domestic partners of their employees.⁵ As Joe Solmonese, president of the Human Rights Campaign, said, “This legislation would allow the federal government to keep pace with other top employers.”⁶ By allowing the same benefits as private employers, the federal government will be able to continue to have “access to the top talent on the same basis as the nation’s leading corporations.”⁷

However, not everyone is a fan of the Act’s goals. The Family Research Council points out the increased cost to taxpayers, estimating nearly a billion dollars required for funding.⁸

Further, critics in favor of lesbian and gay equality point out the Act’s failure to address “Don’t Ask Don’t Tell,” by excluding military service members from those federal employees eligible for coverage.⁹

Senator Joseph Lieberman (I-CT) introduced the Act in the Senate on May 20, 2009 with twenty-seven co-sponsors. The Act was discussed in a hearing of the Senate Committee on Homeland Security and Governmental Affairs on October 15, 2009. It was ordered to be reported with an amendment in the nature of a substitute favorably in December, 2009. Representative Tammy Baldwin (D-WI) introduces H.R. 2517 in the House on May 20, 2009 with one hundred and forty co-sponsors. As of January 29, 2010, the Act was placed on the Union Calendar, No. 239, in the House.

H.Res. 194: “Supporting the Goals of International Women’s Day”

International Women’s Day (“IWD”) is a day of

global celebration that falls on March 8 of every year. The first Women’s Day was first celebrated in 1911 in Austria, Denmark, Germany, and Switzerland, and was attended by more than one million people advocating for women’s rights and an end to employment discrimination.¹⁰ IWD has greatly expanded in prominence over the past century. It is now recognized as an official holiday in approximately fifteen countries.¹¹

International Women’s Day has achieved the same popularity and status as Mother’s Day in a number of countries,¹² but it has not yet reached that level of recognition in the United States. Representative Janice Schakowsky (D-IL) and forty-six co-sponsors have introduced this Resolution to the House in an effort to support IWD, citing staggering statistics of gender disparity across the world.¹³ The Resolution explains that, although there are now many more women in powerful leadership positions across the world, “women still face political and economic obstacles, struggles for basic rights, face the threat of discrimination, and are targets of violence all over the world.”¹⁴ Other disparities include the fact that women account for a majority of people affected by poverty, illiteracy, HIV/AIDS, domestic violence and abuse.¹⁵

This Resolution is a solid effort by the House of Representatives not only to support and recognize the goals of International Women’s Day but also to “issue a proclamation calling upon the people of the United States to observe International Women’s Day with appropriate programs and activities.”¹⁶

S. 752: “Fair Election Now Act”

The Fair Election Now Act outlines a public funding system for Senate elections and establishes provisions for contribution requirements and joint fundraising committees.¹⁷ The Act would amend the Federal Election Campaign Act of 1971 (FECA) by creating a Fair Elections Fund and a Fair Elections Oversight Board.¹⁸ The Act would set additional requirements for campaign financing, including a public debate requirement, political advertising vouchers, and the prohibition of joint fundraising committees outside of the candidate’s official committee.¹⁹ Essentially, the Act would “allow federal candidates to choose to run for office without relying on large contributions, big money bundlers, or donations from lobbyists.”²⁰ Candidates would then “be freed from the constant fundraising” and better able to focus on what their communities want.²¹

Supporters of the Act have described it as promoting “a Congress that is more responsive to the voters, less busy chasing dollars and less reliant on special interests.”²² Commentators have also said that publicly financed political

campaigns “are the answer,” and that they will open doors for a greater number of candidates and allow for “more competitive races and ... campaigns focusing on the concerns of individual voters, not special interests.”²³

The Fair Election Now Act was introduced by Senator Richard Durbin (D-IL) on March 31, 2009 and referred to the Committee on Rules and Administration.²⁴ An act of the same name was introduced in the House by Representative John Larson (D-CT) on the same day and was discussed in the House Energy and Commerce Committee in July 2009.²⁵

“Don’t Ask Don’t Tell”

The National Defense Authorization Act of 1994 contains a section entitled, “Policy concerning homosexuality in the Armed Forces.”²⁶ The “Don’t Ask Don’t Tell” policy, as it is more commonly known, has been the widely discussed subject of debate since its enactment. The Act begins by stating that there is no constitutional right to serve in the military, and it is up to the discretion of Congress to determine who may or may not serve.²⁷ The Act briefly discusses the requirements for members to achieve success as a military unit, including “high morale, good order and discipline, and unit cohesion.”²⁸ The Act further states that, since the “presence ... in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk,” those individuals must be excluded from the military service.²⁹

Since the Act was passed, numerous retired generals and military personnel have come forward to argue that “Don’t Ask Don’t Tell” should be repealed.³⁰ Senator Carl Levin (D-MI), chair of the Armed Services Committee, has said that this issue is not a priority for many lawmakers.³¹

The argument has also been made that, with troops fighting wars in Afghanistan and Iraq, perhaps now is not the time to reintroduce this highly controversial debate.³² Representative Ellen Tauscher (D-CA) has supported the repeal for the past few years and has sponsored legislation in the House, but also acknowledges that a change of this nature will inevitably take time.³³

Senator Roland Burris (D-IL) has compared “Don’t Ask Don’t Tell” to racial integration of the military under President Truman’s administration, saying, “At one time ... members of my race couldn’t even serve in the military. And we moved to this point where they’re some of the best and brightest that we’ve had ... We must have everyone who is capable, willing and able to volunteer to defend this country ... regardless [of] their sexual orientation.”³⁴ Echoing Senator Burris’ statements, Representative Tauscher has described “Don’t Ask Don’t Tell” as “the last big piece of civil rights legislation left.”³⁵

In February, 2010, Defense Secretary Robert Gates announced that the Pentagon would be undertaking a year-long study to assess the attitudes of military service members and potential consequences of repealing “Don’t Ask Don’t Tell.”³⁶ Anticipated factors of analysis include the effects on unit cohesion and service member bonding, as well as other issues such as military communities and family housing.³⁷ Gates said, “We will enter this examination with no preconceived views but a recognition that this will represent a fundamental change in personnel policy...”³⁸

Indeed, a repeal of “Don’t Ask Don’t Tell” would represent a fundamental change. While progress has not been made as swiftly as some may have hoped, there is a large contingent of supportive lawmakers and military personnel who hope to resolve this issue soon.

Endnotes

¹ Domestic Partnership Benefits and Obligations Act of 2009, S. 1102, 111th Cong. (2009).

² *Id.*

³ *Id.*

⁴ The Domestic Partnership Benefits and Obligations Act: Support Equal Treatment in Benefits for Federal Employees, Human Rights Campaign, February 26, 2010, *available at* <http://www.hrc.org/issues/marriage/5662.htm>.

⁵ *Id.*

⁶ Human Rights Campaign Statement on Introduction of the Domestic Partnership Benefits and Obligations Act, Human Rights Campaign, December 20, 2007, *available at* <http://www.hrc/8542.htm>.

⁷ *Id.*

⁸ Government Should Play It Straight on New Spending, Family Research Council, Washington Watch Daily Radio Commentary, *available at* <http://www.frc.org/get.cfm?i=CM10A13>.

⁹ See § (3)(b): “The term ‘employee’ – shall not include a member of the uniformed services,” Domestic Partnership Benefits and Obligations Act of 2009, S. 1102, 111th Cong. (2009).

¹⁰ International Women’s Day: Investing in Women and Girls, United Nations, *available at* <http://www.un.org/events/women/>

[iwd/2008/history.shtml](http://www.un.org/events/women/iwd/2008/history.shtml).

¹¹ About International Women’s Day (8 March), International Women’s Day 2010, *available at* <http://www.internationalwomensday.asp>. (“IWD is now an official holiday in China, Armenia, Russia, Azerbaijan, Belarus, Bulgaria, Kazakhstan, Kyrgyzstan, Macedonia, Moldova, Mongolia, Tajikistan, Ukraine, Uzbekistan and Vietnam. The tradition sees men honouring their mothers, wives, girlfriends, colleagues, etc with flowers and small gifts.”)

¹² *Id.*

¹³ Supporting the goals of International Women’s Day, H. Res. 194, 111th Cong. (2009).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Fair Elections Now Act, S. 752, 111th Cong. (2009).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 2010 Fair Elections Now Act Bill Summary, PUBLIC CAMPAIGN, April 1, 2010, <http://www.publiccampaign.org/fair-elections-now-summary>.

²¹ *Id.*

²² Quotes from Newspapers, PUBLIC CAMPAIGN, <http://www>

publiccampaign.org/node/39243.

²³ *Id.*

²⁴ *Id.*

²⁵ Fair Elections Now Act, H.R. 1826, 111th Cong. (2009).

²⁶ National Defense Authorization Act of 1994, Pub. L. No. 103-160, 10 U.S.C. § 654 (1994).

²⁷ *Id.* at § 654(a)(2)-(3).

²⁸ *Id.* at § 654(a)(6).

²⁹ *Id.* at § 654(a)(13)-(15).

³⁰ Mary Louise Kelly, Congress In No Rush To Lift ‘Don’t Ask Don’t Tell’, NATIONAL PUBLIC RADIO, February 24, 2009, <http://www.npr.org/templates/story/story.php?storyId=101071006>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Luis Martinez, Don’t Ask Don’t Tell Hearing – Mullen Strong on Repeal – UPDATED, ABC NEWS, February 2, 2010, <http://blogs.abcnews.com/politicalpunch/2010/02/dont-ask-dont-tell-hearing--mullen-strong-on-repeal.html>.

³⁵ Mary Louise Kelly, Congress In No Rush To Lift ‘Don’t Ask Don’t Tell’, NATIONAL PUBLIC RADIO, February 24, 2009, <http://www.npr.org/templates/story/story.php?storyId=101071006>.

³⁶ The Future of Don’t Ask Don’t Tell, NATIONAL PUBLIC RADIO, February 8, 2010, <http://www.npr.org/templates/story/story.php?storyId=123497641>.

³⁷ *Id.*

³⁸ *Id.*