

June Events

June 4

Gender Xplosion!

NCTE and the National Youth Advocacy Coalition are cosponsoring this event to provide a space for performance relating to gender expression

June 4 to 6

National Youth Summit

The National Youth Advocacy Coalition's 7th annual Youth Summit will be taking place at the Washington Court Hotel in DC.

June 8 to 13

Be-All Convention

NCTE's Executive Director, Mara Keisling, will be a keynote at this trans convention, sponsored by Chicago Gender Society and Tri-Ess/Chi Chapter.

Skilled Volunteers Needed

NCTE is looking for skilled volunteers in the following areas:

Graphic Design

Database Design

Website Development

Publication Editors and Writers

Please email ncte@nctequality.org or call 202.639.6332 if you are interested in being an NCTE volunteer.

Times Change. Why Doesn't ENDA?

By Mara Keisling, Executive Director
National Center for Transgender Equality

It is an unfortunate fact of life that there are those in Washington who oppose civil rights for the LGBT community, and we need to educate them or advocate around them. Regrettably, it is also true that instead of focusing on winning over those who oppose us outright, the National Center for Transgender Equality, like other transgender groups and our progressive allies, has had to spend far too much energy fighting, negotiating, cajoling and even begging our friends—some in Congress and even some in the LGBT movement—to let transgender people into the Employment Non-Discrimination Act (ENDA).

We have too often heard from our friends that they support us, and that if it were up to them, we'd be in ENDA. But they always point to someone else who doesn't want us in: Congress, the lead sponsors, moderate Republicans, moderate Democrats, HRC, the Log Cabin Republicans. For more than ten years we've been told that same story. Whether they see themselves as gatekeepers or not, by presenting transgender inclusion in ENDA as desirable but negotiable, lead sponsors of ENDA and even LGBT gatekeepers have thus far kept us out of the bill.

We have been told *ad nauseum* that adding gender identity and expression would slow ENDA down. But it is unclear how transgender people could really slow it down, since it's been at a standstill for years now. Would we lose a small number of sponsors at first? Of course. But a united LGBT community could win them back long before Congress is actually ready to pass the bill. Why not take the next few years, when ENDA will be mired in an LGBT-hostile Congress, and educate our legislators about sexual orientation and gender identity and expression together.

Throughout the country, transgender civil-rights protections have expanded at a rapid rate. While the percentage of the U.S. population that lives in a place with sexual orientation protections has been relatively stagnant at 45% for several years, in just the last four years the equivalent percentage for transgender protections has grown from 5% to 25%. And when we include favorable court and administrative rulings in five states, the percentage with transgender protections reaches 35%. Even in Covington, Kentucky last year, a transgender inclusive anti-discrimination bill passed 5-0. This is not fringe stuff anymore.

Similarly, support for transgender rights is approaching unanimity in the LGBT community. A recent survey conducted for the Human Rights Campaign showed that 85% of gay, lesbian and bisexual people surveyed support transgender inclusion in ENDA. In the same survey, 70% support inclusion even if it means bill passage could be delayed. For opinion research, this is about as conclusive as it gets.

In 2003, 28 national and 40 state and regional LGBT organizations communicated to ENDA's lead sponsors in Congress that they were united behind inclusion of transgender rights in ENDA. Nevertheless, the lead sponsors didn't get the message and ENDA remained unchanged.

The most influential LGBT federal lobbying group, the Human Rights Campaign, also began lobbying for transgender inclusion in ENDA while continuing to support a non-inclusive ENDA. Not surprisingly, this nuanced position has proven to be an ineffective negotiating stance. Why would Congress give the LGBT community what it wants when our leading voice in Washington tells them we will accept less? The staff of HRC has communicated to us that their board will make a decision this August on whether to support only a fully inclusive bill. Frankly though, there is hardly a choice left to make: they can either recognize the shift that has occurred in the past 11 years by supporting *only* an inclusive ENDA or they can continue to hold a position that keeps "options" open and transgender people out. That same choice will be faced by our friends in Congress next spring.

Regardless of whether it made sense to exclude transgender people from ENDA in 1993, it certainly doesn't make sense now. Let's finally put this internal conflict to rest, and do what it takes to make ENDA inclusive, so that all individuals and organizations in the community can work together to pass a bill that will protect all of us.

Federal Appeals Court Affirms That Anti-Trans Employment Discrimination is Illegal Sex Stereotyping

Washington – The National Center for Transgender Equality applauded the 6th U.S. Circuit Court of Appeals decision asserting that Title VII of the Civil Rights Act of 1964 protects transsexual employees from workplace discrimination. In *Smith v. City of Salem, Ohio*, the court overturned a District Court decision and said for the first time that anti-transsexual employment discrimination is illegal sex stereotyping.

“This is a landmark case for transgender people,” said NCTE Executive Director Mara Keisling. “And we certainly hope that other circuits will follow the reasoning of this decision. It is still vital however that we continue winning our rights legislatively at the local, state and federal levels as well.”

Jimmie Smith, a lieutenant with the Salem, Ohio fire department came out to supervisors as a male-to-female transsexual. According to witnesses, the supervisors immediately met with city officials to devise a plan to terminate Smith’s employment. The city then unfairly disciplined Smith hoping for either a resignation or a reason to fire Smith. Smith filed a suit based on Title VII and other claims. Though the district court decision went against Smith, the 6th Circuit Court ruled that the trial court had erred.

Randi Barnabee, Smith’s “out” transgender attorney told NCTE, “With this ruling, the court recognized that even the mere admission of contra-gender feelings is behavior that can be wrongly discriminated against based on illegal gender stereotypes. This ruling says that transgender people are per se protected under Title VII because anyone who is transgender can only be discriminated against if the discriminator perceives it through the person’s actions or words.”

This decision is extremely important, especially in the four states that comprise the 6th Circuit (KY, MI, OH and TN) where transgender people are essentially now protected from employment discrimination in many circumstances. But the decision does not remove the need for passing additional local, state and federal anti-discrimination legislation that explicitly includes us.

NCTE Joins Privacy Rights Groups in Supporting Medical Information Privacy

Last week, NCTE joined comments written by the Electronic Privacy Information Center on proposed federal government regulations implementing the Fair and Accurate Credit Transactions Act (FACT Act). By law, the federal government is required to call for public comments on proposed regulations from private organizations and individuals in order to solicit opinions and critiques of proposed policy changes before they take effect.

Part of the Fair Credit Reporting Act (FCRA), the FACT Act prohibits creditors from obtaining or using medical information about a consumer in deciding a consumer’s eligibility for credit. The proposed regulations implement the FACT Act’s fairly narrow exceptions to the general prohibition when it is “necessary and appropriate” for creditors to obtain and use medical information to protect legitimate operational, transactional, risk, consumer, and other needs. In this spirit, the proposed regulations allow creditors to consider medical debt in determining consumer credit eligibility. Also, the proposed regulations also allow consumers to provide medical information voluntarily to creditors.

EPIC’s comments, joined by NCTE, on the act largely supported the proposed regulations, but a few comments suggested amendments that would further protect a consumer’s medical privacy rights and close loopholes in the original wording of the act. We commented that creditors seeking information on the debt of consumers should be granted access to cumulative debt figures, but that creditors should not be granted any medical information related to those figures. Further, our comments suggest changing the regulation so that creditors cannot systematically demand private medical information, ensuring that a person’s right to voluntarily disclose such information does not become mandatory in actual practice.

NCTE supports the movement to protect medical privacy rights because the transgender community is especially vulnerable to medical privacy violations. As such, NCTE stands united with EPIC and other privacy rights organizations in support of refining the proposed regulations and the movement to preserve civil liberties and maintain the privacy of all individuals.

LGBT Support For Transgender-Inclusive Anti-Discrimination Legislation

Over the past two years, more and more LGBT organizations are strongly expressing their support for including transgender rights in federal anti-discrimination legislation. Last year twenty-eight organizations joined to ask Congress to change the Employment Non-Discrimination Act (ENDA) to include gender identity and expression. Nine of those organizations have policies that they will only support inclusive legislation. These nine are BiNET USA, Dignity USA, National Center for Lesbian Rights, National Coalition of Anti-Violence Programs, National Gay and Lesbian Task Force, National Stonewall Democrats, National Youth Advocacy Coalition, PFLAG, Pride At Work (AFL-CIO). The National Organization for Women also has such a policy.

NCTE has recently communicated to the 18 other organizations asking for them to take this stronger position to *only* support inclusive legislation. According to NCTE Board member Donna Cartwright, who is also a Board member of Pride at Work, “Congress didn’t get the message when the united LGBT community said we wanted an inclusive ENDA. Hopefully when they hear we will accept only one inclusive bill, Congress will finally understand and we can all move forward together.”