



LGBT employees still need legal protection, advocates say

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When Michael Cramer's family moved to Springfield, Mass. from Ireland in 1948, they became accustomed to seeing a particular sign on storefronts: "Irish need not apply."

The community – and the world – changed in the intervening decades. By the 1980s, Cramer, an officer with the Springfield Police Department, was struggling with another facet of his identity – he was gay.

For years, Cramer carried the burden of hiding his secret from friends, family members and his fellow police officers. Drinking heavily and battling depression, he resigned in 1989 to deal with his personal problems. Cramer sought counseling, came out to his family and sobered up, even helping to found the Gay Officers Action League of New England as a support group for those in the same predicament.

With four other police officers who had been taken off the force for various personal reasons, Cramer applied to be reinstated to his job in 1991. In his interview before the police commission, he was forthright about the reasons he had left three years before – struggling with his sexual orientation – and about how he had turned his life around since then. The other four officers applying to be reinstated – one who Cramer said was involved in a domestic violence dispute – were all accepted. Cramer was denied.

Other police officers and the mayor of Boston lobbied to get Cramer another meeting with the commission. Although the acting police chief himself vouched for him this time, Cramer was rejected once again, told only that he had not shown enough enthusiasm for the job.

He filed a complaint with the Massachusetts Commission Against Discrimination, the agency responsible for investigating whether the state's discrimination laws have been violated. In 1994, the Commission found there was probable cause that the Springfield Police Department had denied Cramer's request because of his sexual orientation. The city settled the case, and he was hired back as an officer.

“It was very clear to me that something happened there,” Cramer said. “Why would they be cutting the deal if they didn’t see that?”

Massachusetts became the second state to pass a statute banning discrimination on the basis of sexual orientation in 1989, and is now one of 22 states that offer that kind of protection. It is also one of 17 that explicitly bans discrimination based on gender identity. It’s the other 28 states that Cramer worries about – the ones where people like him do not have any recourse even when there is ample evidence that they are being harassed or treated differently because of their sexuality.

Cramer has worked with the Springfield Police Department for the last twenty years since his reinstatement, including in the narcotics unit, as a patrolman and now as a detective, with an unblemished record.

“I wear this badge I have on currently very proudly, and I’m very fortunate that Massachusetts has laws that protect me,” he said. “We’re not seeing the sign anymore, but we’re seeing people hiding and being discriminated against.”

Thursday afternoon, Cramer and other LGBT advocates are watching closely as the Senate prepares to take a vote on the Employment Non-discrimination Act (ENDA), which is widely expected to pass with bipartisan support and more than 60 votes.

The legislation would make the prohibition of workplace discrimination, based on sexual orientation or gender identity, a federal law. Title VII of the Civil Rights Act already offers similar legal protections in employment on the basis of race, religion, gender, national origin, age and disability.

The tenor of the debate around ENDA this year has been markedly different than in years past, and many rights advocates say this is sign of the progress that has been made on gay rights and the degree to which Americans’ views on LGBT issues have evolved. But some proponents, backed by scholarly studies, say workplace discrimination against the LGBT community is a pervasive problem that requires a national solution.

“If you were to look at the legislative record in the 1980s, for example, and what somebody like Jesse Helms of North Carolina said about gay people, it would be really jaw-dropping and shocking in the year 2013,” said Ian Thompson, a legislative representative at the American Civil Liberties Union, referring to the former senator who was known for his outspoken opposition to gay rights. “You just don’t hear people say on the floor of the U.S. Senate it’s perfectly fine to fire people because they’re gay or lesbian.”

Moreover, a survey conducted by Republican pollster Alex Lundry in September showed that 68 percent of Americans supported ENDA, including 56 percent of Republicans. No state registered less than 50 percent support for the law.

Against that kind of backdrop, the legislation is actually not very controversial, said Dan Rafter, assistant communications director for the Human Rights Campaign, a gay rights advocacy

organization. ENDA only applies to businesses with more than 15 employees, and includes a broad exemption for religious organizations.

“This bill is important because it will codify basic values. It codifies that values we can all relate to, which is every person should have the opportunity to work and be paid for that work,” he said.

Still, ENDA faces an uphill climb in the House of Representatives. House Speaker John Boehner has said that he opposes the legislation, releasing a short statement through his representative: “The Speaker believes this legislation will increase frivolous litigation and cost American jobs, especially small business jobs.”

Although some social conservatives are fighting the legislation because they believe it infringes on religious liberties and “mandates the occupation of homosexuals in inappropriate occupations,” according to the language on the Family Research Council’s website, other opponents say the legislation is unnecessary given that gay rights have already progressed without the help of additional federal policies. A full 90 percent of Fortune 500 companies have their own internal policies banning discrimination based on sexual orientation.

Michael Olson, a senior fellow at the Center for Constitutional Studies at the libertarian Cato Institute, said ENDA legislation just adds to the ever-growing list of protected groups, and places a needless burden on private workplaces in order to make a political point. The practical consequence, he said, is that it becomes increasingly difficult for an employer to make personnel decisions without the risk of the employee alleging discrimination based on one factor or another.

“Both sides are mistaken if they believe regulations on the workplace are the right way to announce that society has evolved,” Olson said. “These are workplace regulations, not pledge of allegiances. They should be considered for their practical consequences and not their symbolism.”