

WORKSHEET: COMPREHENSIVE FEDERAL SOGI CIVIL RIGHTS BILL

The idea with this document is to set forth all the various legislative nondiscrimination possibilities in one document that can then serve as the starting point for a discussion of how to proceed.

To start, there is a list of possible legislative elements for a comprehensive non-discrimination bill that would add SOGI to various existing laws. Following that is a list of other policy issues of concern to the community.

There are also many questions to consider in this process, including legal, strategic and macro movement issues. To get the ball rolling, some of those are outlined below as well.

In terms of process, the idea is for this document to be shared among key LGBT organizations with the goal of working together to reach consensus on the content of a bill for filing next congress.

To facilitate that process, a committee of lawyers from each group could convene to manage the process, in consultation with their own organizations. This is wide open to various possibilities, of course, but a lawyers committee can be very helpful.

In the meantime, please send along any ideas that come to mind to include in this document. We are embarking on a very exciting time. Full LGBT Equality Now!

I. NON-DISCRIMINATION LAWS

1. PUBLIC ACCOMODATIONS (Title III, '64 CRA)
2. PUBLIC FACILITIES (Title II, '64 CRA)
3. ALL FEDERALLY FUNDED PROGRAMS (Title VI, '64 CRA).
4. PRIVATE EMPLOYMENT (Title VII, '64 CRA)
5. GOVERNMENT EMPLOYMENT ('78 Civil Service Reform Act, '91 Gov't Employee Rights Act, '95 Congressional Accountability Act).
6. MILITARY EMPLOYMENT (10 U.S.C. Ch. 37)
7. SCHOOLS (options?)
 - A. Title IX of the '72 Educational Amendments
 - B. STUDENT NON-DISCRIMINATION ACT (new)
 - B. '64 CRA TITLE VI (will this already cover issue?).
8. HOUSING (Title VIII, '68 CRA)
9. CREDIT (Fair Credit Act)
10. MARRIAGE (new) (A federal statue, based on federal court decisions).
11. DISABILITY (Americans with Disability's Act)
12. FAMILY LEAVE (Family Leave Act)

II. ADDITIONAL POLICY ISSUES

13. 2nd Parent Adoption
14. LGBT Immigration & Asylum Treatment
15. Trans* Health & Insurance
16. Minority Stress & other mental health treatment & outreach
17. Purging anti-gay arrest records
18. Parental rejection of LGBT minors
19. Others?

III. LEGAL ISSUES:

1. **SCOPE OF FEDERAL DOLLARS:** What is the scope of Title VI in reaching: schools, bullying, police department policy, adoption agencies, health care programs, homeless youth programs, etc.
2. **CURRENT PRACTICE:** What extension of existing protections is already taking place in practice by DOJ, HUD, etc., such as in housing, hospitals, schools, and under which legal authority? i.e., how much of this do we already have that a bill will simply codify in law.
3. **SCHOOLS:** What is the difference among the various legislative options with schools and how do these mandate proactive protection from bullying?
4. **MISSING ANY EXISTING LAWS:** Are there other areas of law where changes are required to end discrimination against LGBT people?
5. **DEFINITIONS:** What are the implications of our definition of “gender identity” to “sex” under Title VI (which doesn’t cover “sex”), and Title IX. How does adding GI to existing laws where “sex” was already interpreted to cover GI impact things?
6. **DRAFTING ISSUES:** Numerous, to be discussed, including: Do we add SOGI to existing provisions in relevant laws, or create parallel laws? Are there various ways to accomplish this inclusion, other than amendment to each provision? How simple could it be?

IV. POLITICAL ISSUES:

1. **FEDERAL DOLLARS:** The provision on all federally funded programs would extend to the religious-affiliated social programs, and this is where the battle lines will be drawn. The issue of whether LGBT people are treated differently under this concept – that federal dollars will not support discrimination based on status - calls the question on our equality as citizens and our dignity as human beings with rights that trump cultural beliefs in the public sphere. This will be our first pro-active move on this in reverse of the multiple state-level fights on this topic.
2. **IN THE CRA or SEPARATE:** What are the messages we send as a community in deciding whether to add SOGI directly to existing provisions, as we do at the state level, versus creating a set of parallel laws at the federal level for LGBT people?

3. **NO OTHER CRA CHANGES:** What assurances can we give to other stakeholders that confirm that we will oppose any other alterations to the CRA. Which bill approach supports this clarity best?

V. STRATEGIC ISSUES:

1. INTERSECTIONALITY & COALITIONS:

What is the potential coalition scenario based on various options:

- A. A bill limited to outlawing SOGI discrimination fully and equally.
- B. A bill that addresses a multitude of social issues relevant to LGBT community.
- C. A bill that includes other changes to the CRA for other constituent groups.

2. TIMING & PURPOSE:

What is the larger purpose of this next filing as a movement?

- A. CLAIM EQUALITY: To make clear our claim to equal human rights protection (i.e., nondiscrimination protections), and thus call the public policy question on homo/transphobia in America?
- B. CAMPAIGN TIME: To serve as an organizing framework for a mass movement campaign during the next two years as we position LGBT equality as a priority headed into the 2016 elections and after.
- C. GO FOR IT NOW: To present to President Obama to wage this effort in a budget battle?
- D. TWO BILLS: Could there perhaps be a second complimentary bill that addresses an array of important public policy issues of concern to LGBT Americans?

3. PROCESS ISSUES:

What is the proper process within community for this conversation, and what degree of public engagement should there be?

VI. NEXT STEPS:

- A. Formulate Legal Working Group.
- B. Take initial pulse on the scope to see where agreement exists.
- C. Create a process for broader movement interface.

VII. DRAFT LANGUAGE & MATERIALS:

- A. [Draft Full LGBT American Bill](#). Drafted by Karen Doering, w/edits by Todd Fernandez. Covers items in Section 1, points 1-12.
- B. [Article](#) containing excerpts of all the existing legislative provisions where SOGI would be added. Drafted by Todd Fernandez, may need updating.
- C. [The Pledge for Full LGBT Equality](#), endorsed by over 250 LGBT & allied groups, including many statewide, political and social organizations representing the vast diversity of the LGBT community. The Pledge covers all items in Section I, points 1-12.