

114TH CONGRESS
1ST SESSION

S. 302

To establish in the Bureau of Democracy, Human Rights, and Labor of the Department of State a Special Envoy for the Human Rights of LGBT Peoples.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2015

Mr. MARKEY (for himself, Mrs. SHAHEEN, Mrs. MURRAY, Ms. WARREN, Mr. DURBIN, Mr. MERKLEY, Mr. CARDIN, Mr. COONS, Mr. FRANKEN, Ms. MIKULSKI, Ms. BALDWIN, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Mr. SANDERS, Mr. LEAHY, Mr. WYDEN, Mr. SCHUMER, Mr. BROWN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. BOOKER, Ms. CANTWELL, Mr. MURPHY, Ms. HIRONO, Mr. CASEY, Mr. SCHATZ, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To establish in the Bureau of Democracy, Human Rights, and Labor of the Department of State a Special Envoy for the Human Rights of LGBT Peoples.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Human
5 Rights Defense Act of 2015”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Relations
7 and the Committee on Appropriations of the
8 Senate; and

9 (B) the Committee on Foreign Affairs and
10 the Committee on Appropriations of the House
11 of Representatives.

12 (2) GENDER IDENTITY.—The term “gender
13 identity” means the gender-related identity, appear-
14 ance, or mannerisms or other gender-related charac-
15 teristics of an individual, with or without regard to
16 the individual’s designated sex at birth.

17 (3) LGBT.—The term “LGBT” means lesbian,
18 gay, bisexual, or transgender.

19 (4) SEXUAL ORIENTATION.—The term “sexual
20 orientation” means homosexuality, heterosexuality,
21 or bisexuality.

22 **SEC. 3. FINDINGS.**

23 Congress makes the following findings:

24 (1) Eighty-two countries prohibit the public
25 support of the LGBT community, promote
26 homophobia across society, or criminalize homosex-

1 uality. That is equal to more than 40 percent of
2 United Nations Member States.

3 (2) In seven countries, homosexuality is a crime
4 that is punishable by death.

5 (3) Around the world, LGBT people face dis-
6 crimination, hatred, violence, and bigotry.

7 (4) Violence and discrimination based on sexual
8 orientation and gender identity are documented in
9 the Department of State's annual Human Rights
10 Report to Congress. The 2013 report continues to
11 show a clear pattern of increased human rights vio-
12 lations in every region of the world based on sexual
13 orientation and gender identity. These violations in-
14 clude murder, rape, torture, death threats, extortion,
15 imprisonment, as well as loss of employment, hous-
16 ing, access to health care, and other forms of soci-
17 etal stigma and discrimination. The report further
18 documents growing LGBT-specific restrictions on
19 basic freedoms of assembly, press, and speech in
20 every region of the world.

21 (5) In Jamaica and other countries, discrimina-
22 tion against LGBT people, including "corrective
23 rape" of lesbian women, occurs all too frequently
24 and with relative impunity.

1 (6) In 2013, the Government of the Russian
2 Federation passed a law banning “Homosexual
3 Propaganda”, which effectively makes it a crime to
4 publically support LGBT equality. The Russian law
5 is the basis for similar anti-propaganda legislation
6 threatened or introduced in countries across Eastern
7 Europe and Central Asia, including Lithuania,
8 Kyrgyzstan, and Belarus.

9 (7) In February 2014, the Government of
10 Uganda adopted a law that makes “aggravated ho-
11 mosexuality” a crime punishable with life imprison-
12 ment and endangers any individual arbitrarily found
13 to support LGBT people. Concurrently, the Govern-
14 ment of Uganda also passed laws severely limiting
15 the basic freedoms of speech and assembly for
16 LGBT citizens. While the Constitutional Court over-
17 turned this law on a technicality in August 2014,
18 leaders in Uganda have pledged to pursue similar
19 legislation, and LGBT persons continue to be sub-
20 jected to discrimination and violence.

21 (8) The Government of Gambia passed an “ag-
22 gravated homosexuality” law in October 2014. The
23 conditions in Gambia for LGBT persons have been
24 deteriorating, and there have been troubling reports
25 of LGBT individuals having been arrested and

1 threatened with torture for their sexual orientation
2 and gender identity.

3 (9) In December 2013, the Government of Ni-
4 geria adopted a law further criminalizing homosex-
5 uality. The law also criminalizes supporting LGBT
6 people in any way, endangering the neighbors,
7 friends, doctors, and landlords of LGBT people.

8 (10) The anti-homosexuality laws in Gambia,
9 Nigeria, and elsewhere not only endanger all LGBT
10 individuals in those countries, but also pose serious
11 risks for those associated with or caring for LGBT
12 people. In addition, international HIV workers could
13 be at risk since the treatment of at-risk populations
14 may constitute support for LGBT people. Studies
15 have shown that when LGBT people, especially
16 LGBT youth, face discrimination, they are less likely
17 to seek HIV testing, prevention, and treatment serv-
18 ices.

19 (11) On December 6, 2011, President Barack
20 Obama released the Presidential Memorandum—
21 International Initiatives to Advance the Human
22 Rights of Lesbian, Gay, Bisexual, and Transgender
23 Persons. The memorandum directed all Federal
24 agencies engaged abroad to ensure that United

1 States diplomacy and foreign assistance promote and
2 protect the human rights of LGBT persons.

3 (12) Secretary of State John Kerry announced
4 that the United States Government would review
5 United States diplomatic relationships with Nigeria
6 and Uganda in light of their recent anti-LGBT ac-
7 tions. Announcements by the Obama Administration
8 on March 23, 2014, and June 19, 2014, indicated
9 the United States Government would emphasize the
10 importance of human rights in Uganda by cutting
11 \$6,400,000 in funding for the Interreligious Council
12 of Uganda because of its support for the Anti-Ho-
13 mosexuality Act, halting a survey designed to mini-
14 mize the spread of HIV/AIDS because of potential
15 harm to respondents, imposing short-term travel
16 bans on Ugandan military officials, halting some
17 joint military exercises with the Ugandan military,
18 relocating funds for a public health institute, and re-
19 stricting entry into the United States of those spe-
20 cific individuals who have committed human rights
21 violations against LGBT persons. Despite the recent
22 anti-LGBT actions by the Government of Nigeria,
23 President Obama has not conducted a similar review
24 of the United States diplomatic relationship with

1 that country or taken steps to emphasize the impor-
2 tance of human rights for LGBT persons there.

3 (13) In December 2013, the Supreme Court of
4 India reversed a lower court ruling and reinstated
5 the criminalization of homosexuality in the second
6 most populous nation on Earth. In April 2014, In-
7 dia's Supreme Court recognized transgender people
8 as a third gender, improving the legal rights of
9 transgender people in that country. Given these two
10 court decisions, the degree of human rights protec-
11 tions for LGBT persons in India is uncertain.

12 (14) Removing institutionalized discrimination
13 and targeted persecution against LGBT people
14 around the world is a critical step in the promotion
15 of human rights and global health internationally.

16 (15) According to the Trans Murder Monitoring
17 Project, which monitors homicides of transgender in-
18 dividuals, 226 transgender persons were killed be-
19 tween November 2013 and November 2014 world-
20 wide. Violence against transgender individuals is
21 particularly alarming in Brazil, where 113
22 transgender individuals were murdered in the one-
23 year period from October 1, 2013, to September 30,
24 2014.

1 (16) According to the International Guidelines
2 on HIV/AIDS and Human Rights, as published by
3 the United Nations High Commissioner for Human
4 Rights, countries should review and reform criminal
5 laws and correctional systems to ensure that they
6 are consistent with international human rights obli-
7 gations and are not misused in the context of HIV
8 or targeted against vulnerable groups.

9 (17) For the world's 1,800,000,000 youth, anti-
10 homosexuality laws and discrimination against
11 LGBT persons poses significant risks. LGBT youth
12 who come out to their family or community often
13 face rejection, homelessness, and limited educational
14 and economic opportunities. These factors contribute
15 to increased risks of substance abuse, suicide, and
16 HIV infection among LGBT youth.

17 (18) On September 26, 2014, the United Na-
18 tions Human Rights Council passed a resolution co-
19 sponsored by the United States that expressed con-
20 cern about discrimination and violence experienced
21 by LGBT persons around the world. Fourteen coun-
22 tries opposed the resolution, including Algeria, Bot-
23 swana, Cote d'Ivoire, Ethiopia, Gabon, Indonesia,
24 Kenya, Kuwait, Maldives, Morocco, Pakistan, Saudi

1 Arabia, the United Arab Emirates, and the Russian
2 Federation.

3 **SEC. 4. STATEMENT OF POLICY.**

4 It is the policy of the United States—

5 (1) to take effective action to prevent and re-
6 spond to discrimination and violence against all peo-
7 ple on any basis internationally, including sexual ori-
8 entation and gender identity, and that human rights
9 policy include attention to hate crimes and other dis-
10 crimination against LGBT people;

11 (2) to systematically integrate and coordinate
12 efforts to prevent and respond to discrimination and
13 violence against LGBT people internationally into
14 United States foreign policy;

15 (3) to support and build local capacity in coun-
16 tries around the world, including of governments at
17 all levels and nongovernmental organizations, to pre-
18 vent and respond to discrimination and violence
19 against LGBT people internationally;

20 (4) to consult, cooperate, coordinate, and col-
21 laborate with a wide variety of nongovernmental
22 partners with demonstrated experience in preventing
23 and responding to discrimination and violence
24 against LGBT people internationally, including

1 faith-based organizations and LGBT-led organiza-
2 tions;

3 (5) to employ a multisectoral approach to pre-
4 venting and responding to discrimination and vio-
5 lence against LGBT people internationally, including
6 activities in the economic, education, health, nutri-
7 tion, legal, and judicial sectors;

8 (6) to work at all levels, from the individual to
9 the family, community, local, national, and inter-
10 national levels, to prevent and respond to discrimina-
11 tion and violence against LGBT people internation-
12 ally;

13 (7) to enhance training by United States per-
14 sonnel of professional foreign military and police
15 forces and judicial officials to include appropriate
16 and thorough LGBT-specific instruction on pre-
17 venting and responding to discrimination and vio-
18 lence based on sexual orientation and gender iden-
19 tity;

20 (8) to engage non-LGBT people as allies and
21 partners, as an essential element of making sus-
22 tained reductions in discrimination and violence
23 against LGBT people;

24 (9) to require that all Federal contractors and
25 grant recipients in the United States Government's

1 international programs establish appropriate policies
2 and take effective measures to ensure the protection
3 and safety of their staff and workplace, including
4 from discrimination and violence directed against
5 LGBT people and those who provide services to
6 them;

7 (10) to exert sustained international leadership
8 to prevent and respond to discrimination and vio-
9 lence against LGBT persons, including in bilateral
10 and multilateral fora;

11 (11) to fully implement and expand upon the
12 policies outlined in the Presidential Memorandum—
13 International Initiatives to Advance the Human
14 Rights of Lesbian, Gay, Bisexual, and Transgender
15 Persons;

16 (12) to ensure that international efforts to com-
17 bat HIV/AIDS take all appropriate measures to sup-
18 port at-risk communities, including LGBT persons,
19 and to create enabling legal environments for these
20 communities;

21 (13) to work with governments and nongovern-
22 mental partners around the world to develop and im-
23 plement regional strategies to decriminalize homo-
24 sexuality and to counteract the prohibition of public
25 support of the LGBT community; and

1 (14) to ensure that those who have a well-
2 founded fear of persecution on account of being
3 LGBT or supporting LGBT rights have the oppor-
4 tunity to seek protection in the United States.

5 **SEC. 5. SPECIAL ENVOY FOR THE HUMAN RIGHTS OF LGBT**
6 **PEOPLE.**

7 (a) ESTABLISHMENT.—The Secretary of State shall
8 establish in the Bureau of Democracy, Human Rights,
9 and Labor (DRL) of the Department of State a Special
10 Envoy for the Human Rights of LGBT Peoples (in this
11 section referred to as the “Special Envoy”), who shall be
12 appointed by the President. The Special Envoy shall re-
13 port directly to the Assistant Secretary for DRL.

14 (b) PURPOSE.—In addition to the duties described in
15 subsection (c) and those duties determined by the Sec-
16 retary of State, the Special Envoy shall direct efforts of
17 the United States Government as directed by the Sec-
18 retary regarding human rights abuses against the LGBT
19 community internationally and the advancement of human
20 rights for LGBT people in United States foreign policy,
21 and shall represent the United States internationally in
22 bilateral and multilateral engagement on these matters.

23 (c) DUTIES.—

24 (1) IN GENERAL.—The Special Envoy—

1 (A) shall direct activities, policies, pro-
2 grams, and funding relating to the human
3 rights of LGBT people and the advancement of
4 LGBT equality initiatives internationally, for all
5 bureaus and offices of the Department of State
6 and shall lead the coordination of relevant
7 international programs for all other Federal
8 agencies;

9 (B) shall represent the United States in
10 diplomatic matters relevant to the human rights
11 of LGBT people, including discrimination and
12 violence against LGBT people internationally;

13 (C) shall direct, as appropriate, United
14 States Government resources to respond to
15 needs for protection, integration, resettlement,
16 and empowerment of LGBT people in United
17 States Government policies and international
18 programs, including to prevent and respond to
19 discrimination and violence against LGBT peo-
20 ple internationally;

21 (D) shall design, support, and implement
22 activities regarding support, education, resettle-
23 ment, and empowerment of LGBT people inter-
24 nationally, including for the prevention and re-

1 sponse to discrimination and violence against
2 LGBT people internationally;

3 (E) shall lead interagency coordination be-
4 tween the foreign policy priorities related to the
5 human rights of LGBT people and the develop-
6 ment assistance priorities of the LGBT Coordi-
7 nator of the United States Agency for Inter-
8 national Development;

9 (F) shall conduct regular consultation with
10 civil society organizations working to prevent
11 and respond to discrimination and violence
12 against LGBT people internationally;

13 (G) shall ensure that programs, projects,
14 and activities designed to prevent and respond
15 to discrimination and violence against LGBT
16 people are subject to rigorous monitoring and
17 evaluation, and that there is a uniform set of
18 indicators and standards for such monitoring
19 and evaluation that is used across international
20 programs in Federal agencies;

21 (H) shall serve as the principal advisor to
22 the Secretary of State regarding human rights
23 for LGBT people internationally; and

24 (I) is authorized to represent the United
25 States in diplomatic and multilateral situations

1 on matters relevant to the human rights of
2 LGBT people, including discrimination and vio-
3 lence against LGBT people internationally.

4 (2) DATA REPOSITORY.—The Bureau of De-
5 mocracy, Human Rights, and Labor shall—

6 (A) be the central repository of data on all
7 United States programs, projects, and activities
8 that relate to prevention and response to dis-
9 crimination and violence against LGBT people;
10 and

11 (B) produce—

12 (i) a full accounting of United States
13 Government spending on such programs,
14 projects, and activities; and

15 (ii) evaluations of the effectiveness of
16 implemented programs.

17 **SEC. 6. BRIEFINGS AND ASSESSMENTS.**

18 Not later than 180 days after the date of the enact-
19 ment of this Act, and annually thereafter, the Special
20 Envoy shall brief the appropriate congressional commit-
21 tees on the status of the human rights of LGBT people
22 internationally, as well as the status of programs and re-
23 sponse strategies to address LGBT discrimination and vi-
24 olence against LGBT people internationally, and shall
25 submit to the appropriate congressional committees an as-

1 assessment of human and financial resources necessary to
2 fulfill the purposes and duties of this Act.

3 **SEC. 7. UNITED STATES POLICY TO PREVENT AND RE-**
4 **SPOND TO DISCRIMINATION AND VIOLENCE**
5 **AGAINST LGBT PEOPLE GLOBALLY.**

6 (a) GLOBAL STRATEGY REQUIREMENT.—Not later
7 than 180 days after the date of the enactment of this Act,
8 and annually thereafter for five years, the Special Envoy
9 shall develop or update a United States global strategy
10 to prevent and respond to discrimination and violence
11 against LGBT people globally. The strategy shall be
12 transmitted to the appropriate congressional committees
13 and, if practicable, made available to the public.

14 (b) INITIAL STRATEGY.—For the purposes of this
15 section, the Presidential Memorandum—International Ini-
16 tiatives to Advance the Human Rights of Lesbian, Gay,
17 Bisexual, and Transgender Persons, issued December 6,
18 2011, shall be deemed to fulfill the initial requirement of
19 subsection (a).

20 (c) REPORTING.—In accordance with paragraph (13)
21 of section 116(d) of the Foreign Assistance Act of 1961
22 (22 U.S.C. 2151n(d)), as added by section 9(b), the An-
23 nual Report on Human Rights Practices shall include de-
24 tailed descriptions of nations that have adopted laws or

1 constitutional provisions that discriminate against LGBT
2 people.

3 (d) COLLABORATION AND COORDINATION.—In devel-
4 oping the strategy under subsection (a), the Special Envoy
5 shall consult with—

6 (1) mid- and high-level officials of relevant Fed-
7 eral agencies; and

8 (2) representatives of civil society, multilateral,
9 and private sector organizations with demonstrated
10 experience in addressing discrimination and violence
11 against LGBT people or promoting equal rights for
12 LGBT people internationally.

13 **SEC. 8. IMPLEMENTATION OF THE UNITED STATES STRAT-**
14 **EGY TO PREVENT AND RESPOND TO LGBT**
15 **DISCRIMINATION AND VIOLENCE AGAINST**
16 **THE LGBT COMMUNITY GLOBALLY.**

17 The Secretary of State and the Administrator of the
18 United States Agency for International Development are
19 authorized to provide assistance to prevent and respond
20 to discrimination and violence against LGBT people inter-
21 nationally, including the following activities:

22 (1) Development and implementation of pro-
23 grams, such as the Global Equality Fund, that re-
24 spond to human rights abuses and economic exclu-
25 sion of LGBT people in the workplace and in public.

1 (2) Development and enforcement of civil and
 2 criminal legal and judicial sanctions, protection,
 3 training, and capacity.

4 (3) Enhancement of the health sector capacity
 5 to detect, prevent, and respond to violence against
 6 the LGBT community and to combat HIV/AIDS in
 7 the LGBT community internationally, in close co-
 8 ordination with the Office of the Global AIDS Coor-
 9 dinator.

10 (4) Development of a leadership program for
 11 international LGBT activists that will foster collabo-
 12 ration and knowledge sharing across the world.

13 **SEC. 9. MONITORING THE UNITED STATES STRATEGY TO**
 14 **PREVENT AND RESPOND TO DISCRIMINA-**
 15 **TION AND VIOLENCE AGAINST THE LGBT**
 16 **COMMUNITY GLOBALLY.**

17 (a) IN GENERAL.—In each strategy submitted under
 18 section 7(a), the Special Envoy shall include an analysis
 19 of best practices for preventing and addressing discrimina-
 20 tion and violence against LGBT people internationally,
 21 which shall include—

22 (1) a description of successful efforts by foreign
 23 governments, multilateral institutions, nongovern-
 24 mental organizations, educational organizations, and
 25 faith-based organizations in preventing and respond-

1 ing to discrimination and violence against LGBT
2 people;

3 (2) recommendations related to best practices,
4 effective strategies, and improvements to enhance
5 the impact of prevention and response efforts; and

6 (3) the impact of activities funded by the strat-
7 egy in preventing and reducing discrimination and
8 violence against LGBT people internationally.

9 (b) INFORMATION REQUIRED TO BE INCLUDED IN
10 HUMAN RIGHTS PRACTICES REPORT.—Section 116(d)
11 (22 U.S.C. 2151n(d)) of the Foreign Assistance Act of
12 1961 is amended—

13 (1) in paragraph (11)(C), by striking “; and”
14 and inserting a semicolon;

15 (2) in paragraph (12)(C)(ii), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (3) by adding at the end the following new
18 paragraph:

19 “(13) wherever applicable, the nature and ex-
20 tent of discrimination and violence based on sexual
21 orientation and gender identity.”.

○