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113TH CONGRESS
2D SESSION

H. R. 5128

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 HOUSE OF REPRESENTATIVES

JULY 16, 2014

Mr. TIERNEY (for himself, Mr. CICILLINE, Ms. ESTY, Mr. GIBSON, Mr. HANNA, Mr. LOWENTHAL, Mr. MCGOVERN, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Foreign Affairs

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''International Human Rights Defense Act of 2014''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

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

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

(2) GENDER IDENTITY.—The term ''gender identity'' means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

(3) LGBT.—The term ''LGBT'' means lesbian, gay, bisexual, or transgender.

(4) SEXUAL ORIENTATION.—The term ''sexual orientation'' means homosexuality, heterosexuality, or bisexuality.

SEC. 3. FINDINGS.

Congress makes the following findings:

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

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

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

(3) Around the world, LGBT people face discrimination, hatred, violence, and bigotry.

(4) Violence and discrimination based on sexual orientation and gender identity are documented in the Department of State's annual Human Rights Report to Congress. The 2013 report continues to show a clear pattern of increased human rights violations in every region of the world based on sexual orientation and gender identity. These violations include murder, rape, torture, death threats, extortion, imprisonment, as well as loss of employment, housing, access to health care, and other forms of societal stigma and discrimination. The report further documents growing LGBT-specific restrictions on basic freedoms of assembly, press, and speech in every region of the world.

(5) In Jamaica and other countries, discrimination against LGBT people, including ''corrective rape'' of lesbian women, occurs all too frequently and with relative impunity.

(6) In 2013, the Government of the Russian Federation and others in the region passed laws banning ''Homosexual Propaganda'', which effectively makes it a crime to publically support LGBT equality.

(7) In February 2014, the Government of Uganda adopted a law that makes ''aggravated homosexuality'' a crime punishable with life imprisonment and endangers any individual arbitrarily found to support LGBT people. Concurrently, the Government of Uganda also passed laws severely limiting the basic freedoms of speech and assembly for LGBT citizens.

(8) In December 2013, the Government of Nigeria adopted a law further criminalizing homosexuality. The law also criminalizes supporting LGBT people in any way, endangering the neighbors, friends, doctors, and landlords of LGBT people.

(9) The anti-homosexuality laws in Nigeria and Uganda potentially endanger all LGBT individuals in those countries. In addition, international HIV workers could be at risk since the study and treatment of at-risk populations may constitute support for LGBT people.

(10) On December 6, 2011, President Barack Obama released the Presidential Memorandum—International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons. The memorandum directed all Federal agencies engaged abroad to ensure that United States diplomacy and foreign assistance promote and protect the human rights of LGBT persons.

(11) Secretary of State John Kerry has announced that the United States Government will review United States diplomatic relationships with Nigeria and Uganda in light of passage of their recent anti-LGBT laws. On March 23, 2014, the Department of State announced that the United States Government would cut $6,400,000 in funding for the Interreligious Council of Uganda because of its support for the Anti-Homosexuality Act, halt a survey designed to minimize the spread of HIV/AIDS because of potential harm to respondents, impose short-term travel bans on Ugandan military officials, and halt some joint military exercises with the military of Uganda.

(12) In December 2013, the Supreme Court of India reversed a lower court ruling and reinstated the criminalization of homosexuality in the second

most populous nation on Earth. In April 2014, India's Supreme Court recognized transgender people as a third gender, improving the legal rights of transgender people in that country. Given these two court decisions, the degree of human rights protections for LGBT persons in India is uncertain.

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

(14) According to the Trans Murder Monitoring Project, which monitors homicides of transgender individuals, 238 transgender persons were killed between November 2012 and November 2013 worldwide.

(15) According to the International Guidelines on HIV/AIDS and Human Rights, as published by the United Nations High Commissioner for Human Rights, countries should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV or targeted against vulnerable groups.

SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to take effective action to prevent and respond to discrimination and violence against all people on any basis internationally, including sexual orientation and gender identity, and that human rights policy include attention to hate crimes and other discrimination against LGBT people;

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

(3) to support and build local capacity in countries around the world, including of governments at all levels and nongovernmental organizations, to prevent and respond to discrimination and violence against LGBT people internationally;

(4) to consult, cooperate, coordinate, and collaborate with a wide variety of nongovernmental partners with demonstrated experience in preventing and responding to discrimination and violence against LGBT people internationally, including faith-based organizations and LGBT-led organizations;

(5) to employ a multisectoral approach to preventing and responding to discrimination and violence against LGBT people internationally, including

activities in the economic, education, health, nutrition, legal, and judicial sectors;

(6) to work at all levels, from the individual to the family, community, local, national, and international levels, to prevent and respond to discrimination and violence against LGBT people internationally;

(7) to enhance training by United States personnel of professional foreign military and police forces and judicial officials to include appropriate and thorough LGBT-specific instruction on preventing and responding to discrimination and violence based on sexual orientation and gender identity;

(8) to engage non-LGBT people as allies and partners, as an essential element of making sustained reductions in discrimination and violence against LGBT people;

(9) to require that all Federal contractors and grant recipients in the United States Government's international programs establish appropriate policies and take effective measures to ensure the protection and safety of their staff and workplace, including from discrimination and violence directed against

LGBT people and those who provide services to them;

(10) to exert sustained international leadership to prevent and respond to discrimination and violence against LGBT persons, including in bilateral and multilateral fora;

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

(12) to ensure that international efforts to combat HIV/AIDS take all appropriate measures to support at-risk communities, including LGBT persons, and to create enabling legal environments for these communities;

(13) to work with governments and nongovernmental partners around the world to develop and implement regional strategies to decriminalize homosexuality and to counteract the prohibition of public support of the LGBT community; and

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

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

(a) ESTABLISHMENT.—The Secretary of State shall establish in the Bureau of Democracy, Human Rights, and Labor (DRL) of the Department of State a Special Envoy for the Human Rights of LGBT Peoples (in this section referred to as the ''Special Envoy''), who shall be appointed by the President. The Special Envoy shall report directly to the Assistant Secretary for DRL.

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

(c) DUTIES.—

(1) IN GENERAL.—The Special Envoy—

(A) shall direct activities, policies, programs, and funding relating to the human rights of LGBT people and the advancement of LGBT equality initiatives internationally, for all bureaus and offices of the Department of State and shall lead the coordination of relevant

international programs for all other Federal agencies;

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

(C) shall direct, as appropriate, United States Government resources to respond to needs for protection, integration, resettlement, and empowerment of LGBT people in United States Government policies and international programs, including to prevent and respond to discrimination and violence against LGBT people internationally;

(D) shall design, support, and implement activities regarding support, education, resettlement, and empowerment of LGBT people internationally, including for the prevention and response to discrimination and violence against LGBT people internationally;

(E) shall lead interagency coordination between the foreign policy priorities related to the human rights of LGBT people and the development assistance priorities of the LGBT Coordi-

nator of the United States Agency for International Development;

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

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

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

(I) is authorized to represent the United States in diplomatic and multilateral situations on matters relevant to the human rights of LGBT people, including discrimination and violence against LGBT people internationally.

(2) DATA REPOSITORY.—The Bureau of Democracy, Human Rights, and Labor shall—

(A) be the central repository of data on all United States programs, projects, and activities that relate to prevention and response to discrimination and violence against LGBT people; and

(B) produce—

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

(ii) evaluations of the effectiveness of implemented programs.

SEC. 6. BRIEFINGS AND ASSESSMENTS.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Special Envoy shall brief the appropriate congressional committees on the status of the human rights of LGBT people internationally, as well as the status of programs and response strategies to address LGBT discrimination and violence against LGBT people internationally, and shall submit to the appropriate congressional committees an assessment of human and financial resources necessary to fulfill the purposes and duties of this Act.

SEC. 7. UNITED STATES POLICY TO PREVENT AND RESPOND TO DISCRIMINATION AND VIOLENCE AGAINST LGBT PEOPLE GLOBALLY.

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

(b) INITIAL STRATEGY.—For the purposes of this section, the Presidential Memorandum—International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons, issued December 6, 2011, shall be deemed to fulfill the initial requirement of subsection (a).

(c) REPORTING.—In accordance with paragraph (13) of section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)), as added by section 9(b), the Annual Report on Human Rights Practices shall include detailed descriptions of nations that have adopted laws or constitutions that discriminate against LGBT people.

(d) COLLABORATION AND COORDINATION.—In developing the strategy under subsection (a), the Special Envoy shall consult with—

(1) the heads of relevant Federal agencies; and

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

SEC. 8. IMPLEMENTATION OF THE UNITED STATES STRATEGY TO PREVENT AND RESPOND TO LGBT DISCRIMINATION AND VIOLENCE AGAINST THE LGBT COMMUNITY GLOBALLY.

The Secretary of State and the Administrator of the United States Agency for International Development are authorized to provide assistance to prevent and respond to discrimination and violence against LGBT people internationally, including the following activities:

(1) Development and implementation of programs, such as the Global Equality Fund, that respond to human rights abuses and economic exclusion of LGBT people in the workplace and in public.

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

(3) Enhancement of the health sector capacity to detect, prevent, and respond to violence against the LGBT community and to combat HIV/AIDS in

the LGBT community internationally, in close coordination with the Office of the Global AIDS Coordinator.

(4) Development of a leadership program for international LGBT activists that will foster collaboration and knowledge sharing across the world.

SEC. 9. MONITORING THE UNITED STATES STRATEGY TO PREVENT AND RESPOND TO DISCRIMINATION AND VIOLENCE AGAINST THE LGBT COMMUNITY GLOBALLY.

(a) IN GENERAL.—In each strategy submitted under section 7(a), the Special Envoy shall include an analysis of best practices for preventing and addressing discrimination and violence against LGBT people internationally, which shall include—

(1) a description of successful efforts by foreign governments, multilateral institutions, nongovernmental organizations, educational organizations, and faith-based organizations in preventing and responding to discrimination and violence against LGBT people;

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

(3) the impact of activities funded by the strategy in preventing and reducing discrimination and violence against LGBT people internationally.

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

(1) in paragraph (11)(C), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (12)(C)(ii), by striking the period at the end and inserting ''; and''; and

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

''(13) wherever applicable, the nature and extent of discrimination and violence based on sexual orientation and gender identity.''.

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