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OA/ID Number: 12139
Scan ID: 185382SS
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185382 SS
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THE WHITE HOUSE
WASHINGTON

96 SEP 11 P6:06 96 SEP 11 P6:

September 11, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: George Stephanopoulos 456-7128
Richard Socarides 456-6247

RW

RE: Update on Recent Senate Action on the Anti-Gay Marriage Bill,
The Employment Non-Discrimination Act and Related Issues.

As you know, on Tuesday the Senate passed the so-called Defense of Marriage Act ("DOMA") by a vote of 85-14. The House had passed the same bill on July 11, 1996, by a vote of 342-67. Also on Tuesday, the Senate narrowly defeated the Employment Non-Discrimination Act ("ENDA"), by a vote of 50-49. The House is not scheduled to take action on ENDA in this Congress.

On May 22, 1996 the Administration indicated that given your previously stated position against gay-marriage, if this legislation was presented to you, you would sign it. We were careful to point out that you were against discrimination directed towards gays, that you had accomplished much for gay Americans, and that the timing of the legislation seemed calculated to divide Americans and was an attempt to use gay rights as a "wedge issue" in the campaign. Still, your position -- combined with some of the rhetoric used by others in describing Administration policy -- caused a storm of protest in the gay and lesbian civil rights community. Many of your strongest supporters in the community believe that the legislation is blatantly discriminatory and have vigorously lobbied against it.

You have said that "the only legal effect of the bill is to make it clear that states can deny recognition of gay marriages that occurred in other states. And if that's all it does, then I will sign it." Actually, that analysis covers only the first substantive provision of the bill, which provides that no state shall be forced to recognize a same sex marriage recognized by any other state. A second provision, however, provides that for purposes of federal law, marriage is defined as only a legal union between one man and one woman, thus denying to same-sex married couples the federal benefits available to opposite sex married couples, even when the state the same-sex couple resides in may recognize their union. You should be aware that some may argue that the bill, in fact, does more than you suggested when you announced your intention to sign it.

The President
September 11, 1996
--page 2--

The Employment Non-Discrimination Act would outlaw discrimination against gays and lesbians in the workplace. You endorsed this legislation on October 19, 1995 (see attached letter to Senator Kennedy) and have worked aggressively for its passage since then.

The Administration was actively involved in the effort this week to gain Senate passage of this legislation. We worked closely with and were in daily communication over a month long period with Senator Kennedy's staff and representatives of the Human Rights Campaign. You and the Vice-President personally contacted a number of Senators with respect to the vote; the Vice-President was on the phone asking Senators to support the bill even during the actual vote. Indeed the ENDA vote would have been tied if Senator Pryor, who had committed to vote "yes," was present. The Vice-President had plans to return immediately to Washington to break a tie, if it was necessary.

The effort to pass ENDA (and its near success) has somewhat deflected attention away from the anti gay-marriage bill. The reaction in the gay and lesbian community to your speech at the Chicago convention and its inclusion of gay and lesbian Americans was extremely positive. And this community universally recognizes that you have been the most supportive president in history. Thus, generally speaking, the relationship with your gay and lesbian supporters is fairly strong. There remain, however, strong feelings about the marriage bill and there will likely be some negative comments when it becomes law.

THE WHITE HOUSE

WASHINGTON

October 19, 1995

The Honorable Edward M. Kennedy
United States Senate
Washington, D.C. 20510

Dear Ted:

I am writing in regard to the Employment Non-Discrimination Act, which you and Senator Jeffords have reintroduced in the current session of Congress.

As you know, discrimination in employment on the basis of sexual orientation is currently legal in 41 states. Men and women in those states may be fired from their jobs solely because of their sexual orientation, even when it has no bearing on their job performance. Those who face this kind of job discrimination have no legal recourse, in either our state or federal courts. This is wrong.

Individuals should not be denied a job on the basis of something that has no relationship to their ability to perform their work. Sadly, as the Labor and Human Resources Committee documented last year, this kind of job discrimination is not rare. Cases of job discrimination on the basis of sexual orientation are seen in every area of our country.

The Employment Non-Discrimination Act, however, is careful to apply some exemptions in certain areas. I understand that your bill provides an exemption for small businesses, the Armed Forces, and religious organizations, including schools and other educational institutions that are substantially controlled or supported by religious organizations. This provision, which I believe is essential, respects the deeply held religious beliefs of many Americans.

Moreover, your bill specifically prohibits preferential treatment on the basis of sexual orientation, including quotas. It also does not require employers to provide special benefits.

The bill, therefore, appears to answer all the legitimate objections previously raised against it, while ensuring that Americans, regardless of their sexual orientation, can find and keep their jobs based on their ability and the quality of their work. The Employment Non-Discrimination Act is designed to protect the rights of all Americans to participate in the job market without fear of unfair discrimination. I support it.

Sincerely,

Bill Clinton

TIME OF TRANSMISSION
96 SEP 11 18:15

TIME OF RECEIPT

WHITE HOUSE
SITUATION ROOM

PRECEDENCE: IMMEDIATE
PRIORITY
ROUTINE

RELEASOR: _____

DTG: _____

MESSAGE NO.: _____ CLASSIFICATION: unclassified TOTAL: 4
PAGES INCLUDING COVERS

FROM: Sharon Wagner 6 2702 GrFl-WW
(NAME) (PHONE NUMBER) (ROOM NO.)

MESSAGE DESCRIPTION: Attached is GS/Socarides memo re anti-gay marriage bill. Is background memo for tomorrow. Helen does not think it should go into schedule though.

TO (AGENCY) DELIVER TO DEPT/ROOM NO. PHONE NUMBER

FRESNO, CA

Phil Caplan

(FOR THE PRESIDENT/INFORMATION)

9/13/96

(9/25/96)

Per Phil Caplan

This was not forwarded to POTUS & it will not be forwarded

Sewagner

REMARKS:

COMM CTR

PLS MAKE SURE that Phil Caplan receives this TONIGHT upon arrival and pls make two copies for him. Thanks.

TIME OF TRANSMISSION

TIME OF RECEIPT

WHITE HOUSE
SITUATION ROOM

PRECEDENCE: IMMEDIATE
PRIORITY
ROUTINE

RELEASOR: Perth (11)

DTG: 120014

MESSAGE NO.: 58250

CLASSIFICATION: unclassified

TOTAL: 4
PAGES INCLUDING COVERS

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(NAME)

6 2702
(PHONE NUMBER)

GrFl-WW
(ROOM NO.)

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TO (AGENCY)

DELIVER TO

DEPT/ROOM NO.

PHONE NUMBER

FRESNO, CA

Phil Caplan

(FOR THE PRESIDENT/INFORMATION)

9/13/96 (9125)
per Phil - Back from trip

TORM - Pls log out

Carol

REMARKS:

COMM CTR

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WASHINGTON

96 SEP 11 16:06
185382

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