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NATIONAL news



Virginia Gov. Mark Warner has been accused of breaking a campaign promise on his first day in office

Social Security system our entire lives, yet in retirement we are denied funds to which we are entitled."

NGLTF noted the significant majority support among the public for equal treatment of same-sex partners. In a 1997 Princeton Survey Research Associates poll, 57 percent of U.S. citizens backed "equal rights for gays in terms of Social Security benefits for gay spouses."

Between 1 and 3 million elders nationwide are gay, lesbian, bi or trans. According to current trends, this population will double by 2030.

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concerns were addressed by finding other restrooms she can use."

VIRGINIA

In one of his first acts as governor Jan. 12, Democrat Mark Warner excluded sexual orientation from the list of protected groups in a nondiscrimination policy for state employees. Gay and lesbian Virginians played an integral role in his election last year.

Chad Johnson, National Stonewall Democrats executive director, called on Warner to clarify his intentions: "Assuming that there was not a clerical oversight in drafting it...Executive Order 1 [is] simply unacceptable and contrary to the governor's campaign promises. While gay and lesbian Virginians were right to work with Warner to defeat a ferociously anti-gay Republican, we will be disappointed if this action indicates the direction of this administration."

The Log Cabin Republicans are taking advantage of the situation to gloat. They say the gubernatorial candidate never made any such pledge.

"Warner's campaign Web site had no mention of a promise to protect gays, nor does the word 'gay' or 'sexual orientation' appear anywhere on his 2001 campaign site or his subsequent transition site," the queer GOP group said in a press release. "Warner's campaign site, however, did contain a section on 'Virginia Values.'"

NATIONAL

The U.S. Marine Corps issued a stop-loss order Jan. 2, halting some administrative discharges during the conflict in Afghanistan but calling for continued discharges under "don't ask, don't tell." Commanders have been instructed to discharge servicemembers because of "involuntary administrative separation or violation of the Uniform Code of Military Justice."

The order goes on to state these guidelines only may be waived in "the most exceptional cases." It closely follows language used by the Army, Navy and Air Force earlier in the conflict.

"No servicemember should assume they can serve while being openly lesbian, gay or bisexual," said C. Dixon Osburn, Servicemembers Legal Defense Network executive director. "Don't ask, don't tell" remains in full effect, and gay-related discharges are continuing without interruption."

The Democratic National Committee is urging Congress to fortify Social Security by eliminating the program's discrimination against same-sex couples and their families. The National Gay and Lesbian Task Force hailed the "historic and precedent-setting" resolution, which was passed Jan. 19 during a general membership meeting in Washington, D.C.

"Currently, our inability to access survivor benefits costs same-sex surviving partners approximately \$100 million a year," executive director Lorri L. Jean said. "We pay into the

KENTUCKY

The U.S. Supreme Court ruling in *Toyota v. Williams*, refusing to recognize workplace-related limitations, further erodes the strength of employee protections under the Americans with Disabilities Act, Lambda Legal Defense and Education Fund said Jan. 9.

The 9-0 decision overturns an earlier victory for a Kentucky auto worker who challenged the corporation's refusal to accommodate her severe carpal tunnel syndrome. The court ruled she did not show the limitations on her ability to perform "manual tasks" substantially limited a major life activity. It defined such a limitation as being severely restricted from doing those things "of central importance to everyday life."

"The drafters of the ADA never contemplated that this level of scrutiny, complicated by the necessarily subjective task of determining what is 'centrally important' in a person's life, would precede a determination that someone is covered by the act," noted Catherine A. Hanssens, Lambda AIDS Project director. "Nowhere near this amount of attention gets focused on the employer's discriminatory conduct in these cases. In fact, more often than not, the merits of the case are never reached."

Application of the court's reasoning to a person with HIV could leave many without a viable legal remedy for a wide range of discriminatory exclusions from work and social activities. For example, a newly diagnosed adolescent whose "central" life activities remain largely unaffected could face insurmountable difficulties passing this disability test, particularly because the major life activity the court has recognized to date as affected by HIV—reproduction—might not be considered sufficiently "major" for a young person by conservative justices.

"What type of evidence will the court require in order to show that a 'central life activity' of an adolescent with HIV has been impaired when the kid is thrown out of a summer camp?" Hanssens added. "This decision just increases the burden on people with HIV who want to challenge discriminatory treatment in court."

LOUISIANA

Southern grocery giant Winn-Dixie plainly concedes its sole reason for firing an employee of two decades was that off-duty he sometimes cross-dressed as a woman, the American Civil Liberties Union told a federal judge Jan. 23 in papers seeking a ruling without a trial in its sex discrimination lawsuit against the company.



Catherine A. Hanssens

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