

ENDA And Barney Frank's Trans Penis Panic

By Marti Abernathey

Published April 13, 2010 | Updated March 31, 2026

https://www.transadvocate.com/enda-and-barney-franks-trans-penis-panic_n_2441.htm

Abstract

In a recent interview with Karen Ocamb, Barney Frank said: "I'm hoping to get a vote on it in committee [House Committee on Education and Labor, chaired by California Democrat George Miller]. I'm doing a lot of work on it quietly, to get the issues involving transgender access to rooms where people have their clothes [...]"

Article

In a recent interview with Karen Ocamb, Barney Frank said:

"I'm hoping to get a vote on it in committee [House Committee on Education and Labor, chaired by California Democrat George Miller]. I'm doing a lot of work on it quietly, to get the issues involving transgender access to rooms where people have their clothes off. That's a fact that you have to deal with, particularly for people who have not had an operation."

Frank has had a reputation for having a preoccupation with preoperative trans-women's penises. Since writing "A Frank Bitch Slap", I've feared about Frank's public outbursts concerning the transgender penis. Miranda Stevens-Miller said of Barney Frank:

A little while later, I found Barney without a group of people around him, so I once again engaged him in conversation. "So," I said, "does your support of transgender inclusion in the VAWA mean that you might be changing your mind about inclusion of gender-variant people in ENDA?" An innocent enough question, but you would have thought that I was threatening him with a loaded weapon. He got red in the face and started shouting, "Never." His problem was that until we could answer the question of "people with penises in [women's] showers," there is no way that he would support it. The conversation got rather heated to say the least. And with Barney speaking very loudly and repeatedly about "penises in showers," we attracted a lot of attention in the restaurant.

and

In fact, it was déjà vu, recalling a similar conversation we had almost two years ago when Barney was in town for a meeting of the Stonewall Democrats. At that time, it was "men in women's bathrooms." I pointed out to him that while he was discussing urinary rights, I was talking about human rights and employment discrimination. His only come-back was, "What's the matter? You too good to talk about bathrooms?"

When he hired Deigo Sanchez as his chief of staff, many thought his days of transphobic outbursts

were behind him. But it seems like Frank still has this obsession. Again, from his interview with O'Connell:

"But the House has already passed the bill without it, which helped us because it helps us focus. Call people and say we want you to support the bill and don't water down the transgender provision - because that's the point of political trouble. And they should start calling now. I believe we'll get a vote sometime this month."

and

"Essentially, there are full protections for people who are transgender with a couple of provisos: One - the employer can ask for a gender consistent dress code. No mustaches and dresses. Two - people with one set of genitals do not have a legal right to get naked in front of the other set, is the basic way to put it. Some accommodation has to be made there. If you insist on the right for unrestricted access to bathrooms - we lose. And we're making some accommodations here. And we worked it out with the transgender community. We had people very upset when we raised it - it became clear we couldn't pass the bill without it."

But those accommodations have already been dealt with. In April of 2007 (H.R. 2015) and in the most current version of ENDA (3017), the shower/changing facilities issue was addressed:

CERTAIN SHARED FACILITIES- Nothing in this Act shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

ADDITIONAL FACILITIES NOT REQUIRED- Nothing in this Act shall be construed to require the construction of new or additional facilities.

At the time, Dr. Jill Weiss addressed the issue concerning the ENDA language by saying:

As I read it, it means that shower or locker rooms without private stalls are exempt, so long as employees get a shower or locker room 'not inconsistent with' their self-identified gender. Thus, a transgender person, regardless of surgical status, can be singled out for placement in a single-person shower room, though everyone else uses a multi-person gendered shower room. However, this would only happen, according to the text, if the rooms involved 'unavoidable nudity.' Many shower and locker rooms these days have some stalls for private use.

ENDA does not require employers to segregate transgender employees. Rather, it specifically notes that when the locker/shower room has private spaces, ENDA applies to permit the transgender person to use the room appropriate to their gender identity. But when there is no private space in the locker/shower room, then ENDA leaves it up to the employer to segregate or not to segregate - it is up to them to do the right thing, and I hope they would."

What the bill hasn't addressed was bathrooms...until now. Frank's admitted that they're changing the language to include restrictions on bathroom usage. The narrative that ENDA can't pass without

bathroom restrictions is something that Frank has beat the drum for again, and again, and again.

When I lobbied Senator Lugar's office in 2007, his staff were concerned about the effect ENDA would have on businesses, not about transgender people in bathrooms. I've never heard of any transgender person who's lobbied the Hill say that they've experienced Congressional "penis panic" either.

The question has to be asked, would Frank support the same restrictions on gay and lesbian members of the armed forces that he's asking of transgender workers? One only need look to the newspaper to see gay men acting out in restrooms. The reality of gay men engaging in illegal sexual activities in restrooms is a common occurrence, yet Frank hasn't publicly expressed the need to restrict gay servicemen in restrooms and showers. The issue of sex crimes committed by transgender women in women's bathrooms is a COMPLETE FICTION, yet Frank continues to push this transgender penis panic into the media. The same kind of fear that Frank is peddling was tried both in Maryland and Gainesville, and the voters rebuffed both efforts.

The words of Miranda Stevens-Miller in 2000 still ring true today:

"His adolescent preoccupation with genitals is one of the major stumbling blocks in getting federal legislation introduced to protect the gender variant people of America. With his fantasy of penises in showers, he is almost single-handedly holding back the tide of the national gender rights movement."

Mara Keisling has been quoted that the new language "might be harmless or it might be horrible." It looks like it's trending towards horrible.

Suggested citation

Marti Abernathy. "ENDA And Barney Frank's Trans Penis Panic." TransAdvocate, April 13, 2010.
https://www.transadvocate.com/enda-and-barney-franks-trans-penis-panic_n_2441.htm