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Gay-rights advocates have fresh optimism

Tolerance more common since previous setbacks

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REHOBOTH BEACH -- As dusk settles over a midweek day in this Atlantic beach town, a group of men crowd the Blue Moon restaurant, sharing stories and jokes over wide glasses of red wine and bottles of Budweiser.

One man's mention that he is a U.S. Army reservist is met with "Oh, my God, there's a straight boy in the mix!" The reservist just smiles.

"There's a good sense of community here, both gay and straight," said a man who recently came out of the closet and moved to the town, long known across the East Coast for its gay enclave.

Gays and lesbians elsewhere aren't so lucky.

Across Delaware, incidents that gay and lesbian advocates say amount to discrimination occur every day.

A teacher asked to remove a rainbow sticker. A male nurse subjected to rude comments by a doctor. An office worker who watched as his openly gay supervisor was fired. There could be as many as 500 complaints each year in the workplace alone, according to one analysis.

And they are perfectly legal under Delaware law.

Legislation that would protect Delawareans from discrimination based on sexual orientation has failed for years, thwarted by senators who used the power held by committee chairmen to bury the bill in a desk drawer without ever bringing it to the full Senate for a vote.

In each of the past two General Assemblies, Senate President Pro Tem Thurman Adams Jr., D-Bridgeville, has assigned it to a committee headed by a loyalist stridently opposed to the bill -- first, Sen. Robert L. Venables Sr., D-Laurel, and then, Sen. James T. Vaughn, D-Clayton.

Though those same senators have promised a similarly hostile reception when legislation is introduced later this year, the political climate is changing.

With New Jersey's recent endorsement of civil unions, the Philadelphia School District's decision to add a note about "Gay & Lesbian History Month" to its calendars and Gov. Ruth Ann Minner's push to extend domestic-partner benefits to state workers, supporters believe they have a better chance than ever to push through a bill that would provide protection on a society-wide basis.

Members of Delaware's gay community -- estimated at 24,000 -- hope they can sway Senate leadership this year by convincing a majority of Democrats in a key committee to sign on.

The bill would bar discrimination based on sexual orientation in such areas as housing, public accommodations, insurance and employment, putting Delaware in line with 17 other states, according to the civil rights organization The Human Rights Campaign of Washington, D.C.

The bill is being watched closely about an hour south of Dover, by the gay reservist who asked that his name not be used, and others.

Joyce Felton, owner of the Blue Moon, one of the first restaurants to welcome gay and straight patrons, remembers the tomatoes, eggs and full Coors Light cans thrown through the doors and windows in the 1980s.

But things are different now. On the same night the happy-hour crowd was celebrating a birthday at the Blue Moon, a group of conservatively dressed accountants celebrated the end of tax season.

Rehoboth Beach Police Chief Keith Banks fondly refers to his town as clean and safe. The last gay-bashing incident occurred in 2002, when two men called a jogger a vulgar name. He responded with: "Nice vocabulary, guys." They then tried to rob him. But the victim was not carrying a wallet.

During the summer, there are still scattered reports of comments yelled out of cars, Banks said, but overall, everyone seems to get along just fine. Banks' officers are trained to be sensitive to diversity, with an entire session devoted to sexual orientation.

Ben Killebrew, 69, said he's never had a problem with so much as gay slurs in Rehoboth. Rehoboth is a haven, and that's what keeps more and more gays coming there.

"It's just mutual respect," he said.

But across the state, discrimination aimed at gay males and lesbians, particularly gay couples, is frequent and widespread, said Drew Fennell, a lesbian who directs the American Civil Liberties Union of Delaware. "I get a number of calls from people who were physically attacked because of their sexual orientation, and we can't have that in our society."

'It creates a barrier'

For Milton resident Doug Marshall-Steele, the legislation is especially poignant. When Marshall-Steele was a registered nurse, a doctor made "disparaging remarks about me as a gay man," he said.

Marshall-Steele brought the matter to the hospital management's attention. The doctor was disciplined. Soon after, Marshall-Steele was fired.

He sued and later settled for \$50,000 and the requirement that the hospital perform remedial steps.

But the issue of discrimination based on sexual orientation was ignored.

"They were not required to include sexual orientation in their policy," he said.

In Delaware and other states without any laws prohibiting discrimination based on sexual orientation, people face an uphill legal battle if they want to fight it, said Greg Nevins, senior staff attorney with Lambda Legal, a national gay-rights group.

"It creates a barrier when there's not a statute to turn to," he said.

Because it can offer no legal remedies, the ACLU does not log or count complaints about discrimination based on sexual orientation, Fennell said.

"The law is powerless to help them," she said.

In 1999, as a previous version of the bill was under consideration, the state Department of Labor tracked how many sexual-orientation discrimination complaints it received in a month. The total was 42, or just more than 500 a year, said

Sen. Karen E. Peterson, D-Stanton, who was the director of the Industrial Affairs division at the time.

A bill to provide legal protections has been shepherded through the House of Representatives three times by Rep. William A. Oberle Jr., R-Beechers Lot. Each time, it died on the vine in the Senate. To head off a repeat of that frustration, the bill will be introduced this time in the Senate.

"Passage in the House is almost a *fait accompli*," he said. "The problem has always been in the Senate, and we collectively felt it makes more sense to begin in the Senate."

Sen. Harris B. McDowell III, a co-sponsor in previous years, will introduce the bill as soon as possible after legislators return from Easter break, probably on Tuesday. He was majority leader, Adams' top lieutenant, when the bill died in the two previous sessions, and he says he's not altogether certain about prospects for passage this time around.

McDowell's bill would be companion to S.B. 10 by Sen. Margaret Rose Henry, D-Wilmington East. That bill encompasses Minner's plan to extend to domestic partners of state employees the same benefits available to the spouses of married workers.

Adams, Venables and Vaughn represent a conservative mind-set that has adherents on both sides of the political aisle. Opponents see the proposal as a first step toward gay marriage or civil unions, now illegal in Delaware.

Momentum building behind the bill several years ago was undercut when the Massachusetts courts legalized gay marriage, leading many on the fence in Delaware to worry that an anti-discrimination law that covered sexual orientation could force Delaware to recognize gay unions sealed in other states.

The conservative forces, however, have not been able to gain traction with a bill to alter Delaware's Constitution to designate marriage as only between a man and a woman. That proposal from Sen. John C. Still III, R-Dover North, never came to a vote in the Senate last year.

Adams said McDowell's bill should expect a similar fate this year. It will be up to Adams to pick the Senate committee to review the bill -- and the committee chairman who can control its fate.

"I hope its reception isn't very good," Adams said. "I'm sure there will be some discussion about it. But I don't like it."

Support for the bill is not unanimous, even in the House.

Rep. Gerald W. Hocker, R-Ocean View, expressed opposition to the bill before winning his 38th District seat in 2002. He stands by his opinion that the bill is special legislation and, as such, is not needed. He says he sees no signs of discrimination against gay people.

"We all have equal rights and we don't need any special-rights bill," he said. "To be honest with you, I'm a great believer that all people are treated equally now. I just don't see the need for it."

On its Web site, the Delaware Family Foundation, a nonprofit organization that pushes traditional family values and has been active in the fight against the nondiscrimination bills, links such legislation to the AIDS epidemic.

"The bill is not about discrimination," the organization says. "It is about gay activists wanting to force approval of a behavior that kills its participants."

One of the bill's supporters, Mitch Crane of Milford, vice president for political action with The Delaware Stonewall Democratic Club, said his organization had requested a meeting with the Senate's Adams, but had received no reply. The club is an affiliate of a national organization pressing for equal rights for gay, lesbian, bisexual and transgender individuals.

"All we ask is that [the Senate] have a right to vote it up or down," Crane said.

"We think it should be embarrassing to Democrats that the Republican-controlled House will consider and act on such legislation and the Democrat-controlled Senate won't consider it and bring it to the floor," Crane said. "We hope that will change."

Such protection was already extended to employees of the executive branch of state government under an executive order by Gov. Ruth Ann Minner.

"We hope the powers of the Senate understand that this is an equal-rights issue, not a special-rights issue, and it's not going away," said Steve Elkins, who operates CAMP [Create a More Positive] Rehoboth -- a center for gay men and lesbians in Rehoboth Beach.

'A visual shock'

In the 1980s, as gays from urban centers like Washington, Philadelphia and New York discovered Rehoboth as a beach destination, tensions flared with the community. In addition to vandalism at restaurants such as Blue Moon, some people put bumper stickers on their cars that said "Keep Rehoboth a Family Town."

Fears of AIDS, worries about the influence on children and plain queasiness about homosexuality kept the gay community and its supporters isolated. Felton, who is straight, recalls neighbors who called police while she swept her restaurant. The complaint: She was using an industrial broom and did not have a construction permit.

Then-Mayor John Hughes was quoted in the press as saying, "The average citizen is not yet ready for two guys holding hands and kissing on the street. I don't give a damn what the Constitution says. It's still a visual shock."

Discrimination hit an apex in 1993. Four gay men were beaten by a group of boys wielding a baseball bat and a champagne bottle. One of the men suffered brain damage.

That's what put a face on the gay community, Elkins said.

"It mobilized people to say, 'Enough is enough,' " he said.

Tolerance comes gradually

Soon, new police training began, gays and lesbians rose to leadership roles and much of the hate subsided.

Openly gay town commissioners have been elected. Souvenir shops sell rainbow "RB" bumper stickers alongside postcards and bikinis. Three years ago, a restaurant called "Partners" opened with the slogan: "Rehoboth's Newest Gathering Spot for the GLBT Community, as well as our Straight, but not Narrow friends and neighbors."

The restaurant's trademark drink is a "Clear, Queer Cosmo," but Karin Kampmann, 66, and her husband come for the food. Kampmann particularly likes the Thursday night fish special and seems surprised when asked if she minds the mixture of straight and gay clientele.

"I personally think it's not as big an issue as it was 30 years ago," she said.

Even former Mayor Hughes agrees. Now secretary of the state environmental agency, he said his fears about the gay community were unfounded.

"I don't know who's gay, who isn't, and I don't give a damn," he said.

But Marshall-Steele, who hyphenates his last name with his partner's and said he was the first to legally do so in the state, said those new ideas haven't spread through the rest of Sussex County.

"The eastern part of Sussex County is much safer for gay people and that includes Rehoboth Beach, Lewes and

Milton," he said. "But outside those areas, especially west of Georgetown, is much more traditional and nonprogressive."

Marshall-Steele, who isn't working any more and dedicates his days to gay rights, created a Web site where people can share tales of discrimination.

On the site, TowardEquality.org, one poster told of how his openly gay supervisor was fired: "I managed to keep my job within the new department for the following year," he wrote. "Why? Because I had been too afraid to come out."

A high school teacher wrote about how the administration told him to take down a rainbow sticker that identified his classroom as a safe zone to talk about issues concerning sexual orientation.

"In the weeks that followed, students kept asking me why I took the sticker off. I said, 'The district requested it.' "

Some employers ban discrimination

The Human Rights Campaign says 29 of Delaware's 50 biggest employers -- including, by virtue of Minner's executive order, the state at the top of the list -- have policies that forbid discrimination based on sexual orientation. Seventeen of those employers offer benefits to the unmarried partners of their employees.

Robert Martz, 62, president of a Wilmington-based advocacy group called the Delaware Liberty Fund, says that, for fear of jeopardizing his career, he didn't come out at work as a gay man before he retired. He says, though, that his partner is subjected to discrimination, including off-color jokes, in a workplace that he declined to disclose.

"It's only been since I've left the work force that corporate America has started embracing gays and lesbians," he said.

"Saying there's no discrimination [against gay people] is like saying there's no discrimination against women and no discrimination against African-Americans. What more can I say?"

By Martz's head count, 10 senators -- six Democrats and four Republicans -- are sure-fire votes for the nondiscrimination legislation and two others have said they probably would vote for it. Martz is looking for another Democrat, which would round out a majority of Adams' 13-member Democratic caucus and conceivably make it harder for him to stand against the measure.

"Theoretically," Martz said, "we have 12 votes, but a promise is one thing and a vote is something else. I need signatures on the dotted line."

Elkins said if the legislation is not enacted this year, advocates will keep pushing for it.

"Change takes time and you have to keep educating people," Elkins said. "But we are pragmatists, and we will be back next year."

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TIMELINE OF GAY-RIGHTS MOVEMENT IN DELAWARE

1993 -- A group of young men assault several gay men in Rehoboth Beach with a baseball bat and champagne bottle. One of the victims suffers brain damage.

1995 -- Partners Douglas Steele and Corey Marshall legally change their names to become Douglas and Corey Marshall-Steele.

1996 -- The Domestic Partnership Act is introduced and later stricken. It would have made domestic partnerships between persons of the same gender legal and would have guaranteed visitation rights in health care facilities and prisons.

1996 -- A bill that prohibits same-gender marriage from being performed or recognized in Delaware is passed.

1997 -- Sexual orientation is added to Delaware's hate-crime law.

1998 -- A bill is introduced to ban sexual-orientation discrimination in the workplace. It does not pass.

2001 -- H.B. 99, which would outlaw sexual-orientation discrimination in employment, housing, public accommodations and insurance, is passed by the House.

It later dies in the Small Business Committee in the Senate.

2003 -- H.B. 99 is introduced again and passed in the House again. It later stalls in the Senate Judiciary Committee.

2004 -- The News Journal runs the engagement announcement of Victoria Morelli and Kristen Tosh. The notice is regarded by many as the first same-sex engagement notice in a daily newspaper in the state.

2005 -- A bill is introduced to replace H.B. 99. An altered version of it passes in the House and dies in the Senate Judiciary Committee.

2007 -- A bill is introduced that would ensure that state employees' straight and gay domestic partners would receive the same benefits as traditional spouses