

REPORT TO THE UNIVERSITY COMMITTEE OF THE AD HOC STUDY COMMITTEE ON
ADHERENCE TO UNIVERSITY POLICIES ON PLACEMENT AND NON-DISCRIMINATION

The Ad Hoc Study Committee on Adherence to University Policies on Placement and Non-Discrimination was charged by the University Committee to study adherence to non-discrimination rules and policies, with special attention to job recruitment, interviewing and counseling. The committee study was directed broadly but focused primarily on non-discrimination based on sexual orientation, the issue giving rise to the faculty senate request for the committee study. Of special concern was adequacy and appropriateness of rules and regulations. The committee study was undertaken because of several earlier events, including:

1. The Madison Faculty Senate, on May 7, 1979, passed a resolution directing that all policies on non-discrimination in effect at UW-Madison should include "sexual preference" as one of the bases on which discrimination is prohibited.
2. The Council of the Wisconsin Student Bar Association of the University of Wisconsin-Madison unanimously voted to institute a policy of non-discrimination on the basis of sexual orientation. Subsequently, the Council filed an interviewing complaint against the Federal Bureau of Investigation.
3. Chancellor Irving Shain's interpretation of Madison policies as they pertain to implementation of the 1982 amendment to the Wisconsin Fair Employment Act and recruiting activities on campus. Evidently the armed services and the F.B.I. are unwilling to enlist or employ homosexuals. On October 4, 1982 Chancellor Shain made two points. First, employers who are accused of discrimination based on sexual orientation will be reported to an appropriate Wisconsin enforcement agency. If, after an appropriate hearing, these employers are found to be violating the law of Wisconsin they will be barred from using University facilities for interviews. Second, Chancellor Shain observed that the University of Wisconsin-Madison must adhere to federal law, and that unless Wisconsin employment law applies to the national government, the University is obliged to continue to afford its facilities to potential federal employers.
4. The Madison Faculty Senate, on November 1, 1982, reaffirmed its previous statement(s) on non-discrimination. After discussion, the faculty referred the matter to an ad hoc committee to be appointed by the University Committee. This committee was thereafter appointed.

The Committee's Approach

The Committee agreed to review all aspects of discrimination, but to focus on the alleged conflict between our non-discrimination policies and our obligation to assist students seeking future employment.

We received, from our own investigations and from others, information on the legal, moral and policy aspects of discrimination based on sexual orientation. We reviewed the provisions of Wisconsin law, helpfully assisted by the university attorney, Michael Liethen. We received, read, and reviewed the opinions of judges in contested cases, and sought, with but modest return, information from other campuses. During our study, Wisconsin's Attorney General issued an opinion concluding that the amendment to Wisconsin's Fair Employment Act to include sexual orientation did not apply to the University's participation in the Reserve Officer Training Corps program.

The committee convened a public hearing on April 19, 1983 at the Wisconsin Center. All faculty, academic staff and campus administrators were invited. The Dean of Students office helpfully distributed notices, and we tried to identify and notify all student and community groups which might have an interest. About 25 persons attended the hearing in addition to committee members. Six persons registered, but did not wish to speak; eight others registered and made presentations. Seven persons addressed the general issue of discrimination based on sexual orientation, and one spoke to a particular case. We believe we heard a wide range of views, including comments on the law and morals. All presentors favored a broadly based policy against allowing any organization that practiced discrimination based on sexual orientation to use campus facilities. All actual incidents referenced by presentors were beyond jurisdiction or control of Madison campus.

Discussion

The committee devoted considerable time to discussing two Madison campus policies: (1) The policy against non-discrimination based on race, sex and sexual orientation and (2) the faculty's obligation to give students opportunities to meet on campus with prospective employers. There is a potential conflict between these policies in that some employers have a history of discrimination or seem to be discriminating presently within agencies of the federal government based on sexual orientation.

First, both faculty rules and state law forbid invidious discrimination, including discrimination based on sexual orientation. The policy against discrimination based on sexual orientation is not as firm, however, as the policies against discrimination on the basis of sex and race, because affirmative action obligations attach to the latter, but not to sexual orientation discrimination.

Second, the Madison campus has long favored encouraging students "to meet on campus with a wide range of representatives to learn of current and projected employment and educational opportunities" (see Policy Statement approved by the Madison faculty on March 8, 1967, Fac. Doc. 121). To that end a number of placement offices afford opportunities to potential employers to come to Madison and talk with students. However, rarely are employment decisions made on campus. Most potential employers make their decisions elsewhere in places beyond the jurisdiction of the State of Wisconsin. Campus placement offices are part of our total educational program. They are NOT employment agencies.

This committee unanimously agrees that every employer who uses campus facilities may not limit contacts with students in a discriminatory manner

(see recommendation No. 1). This is the policy of placement offices. Employers, moreover, should be aware of the Madison campus policies against discrimination and the Wisconsin law on discrimination. This committee applauds a recent revision of the placement offices' Campus Recruiting Information form which now carries notice of Wisconsin laws prohibiting discrimination with specific reference to sexual orientation.

The majority of this committee believe that the two policies against discrimination and assisting students in gaining knowledge about career prospects can be harmonized. This accommodation is assisted by the recently tendered advice of the Attorney General of Wisconsin. He recently concluded that 1982 amendments to Wisconsin law regulating decisions based on sexual orientation did not apply to federally sponsored ROTC programs. The reasoning underlying the Attorney General's opinion is his construction of the Wisconsin statutes. A new law should not be construed as displacing an older law unless the legislature explicitly so states. The Wisconsin legislature did not intend, he found, to apply its policies against discrimination based on sexual orientation to federal agencies. Similarly we do not believe that our faculty intended its anti-discrimination policies to remove the University from its role in officer education programs (which have received a faculty mandate also), nor do we believe that the faculty intended that its non-discrimination policies apply to federal agencies, or to others who act outside the jurisdiction of the University or outside the State of Wisconsin. We do not believe that the faculty intended to deprive our students of an opportunity to learn about lawful employment with the national government, or with private employers, or about educational opportunities at institutions which may not share all the values held in Madison. We believe that the faculty continues to honor its 1967 policies on placement, namely:

"The policy of the University Placement Services with respect to campus interviews is to permit at appropriate times any bona fide employer or higher education or professional school representative to meet with interested students in university facilities when available for purposes of exchanging such information as may be relevant."
Fac. Doc. 121 (1967)

We do not interpret the Faculty Senate as saying that it holds authority to regulate conduct that is not within its power to control. Nor does the majority of the committee believe that the Faculty Senate sought to make our placement offices serve as enforcement agencies. The placement offices must comply with the mandates of state and federal law, and they must fulfill their faculty supported mission of assisting our students in achieving career goals. Users of placement services should have available information from the placement office on how to invoke the assistance of state or federal agencies charged with enforcing the state's policies on discrimination.

We recognize that criteria for employment in some federal agencies is both vigorously criticized and vigorously defended. The armed services have stated, for example, that they will not recruit or commission homosexuals, and the Federal Bureau of Investigation has evidently a similar policy. Those who criticize or defend these policies have a right to do so. When the criticism or defense is well founded it is information which students should have and an appropriate method by which such information is available and given to students should be established.

Based on legal opinions and our deliberations we reject the proposals that Madison campus policies apply to conduct outside of Wisconsin, and are thus able to make the faculty's non-discrimination policies consistent with Wisconsin law, retaining our commitment to a viable placement system for our students. Moreover, we avoid several difficult, if not intractable, problems.

First, when the out-of-state conduct is protected by law we avoid appearing to assert we have power to impose Madison faculty values on those outside our community. Tolerance of the opinions of others is a virtue which we should foster.

Second, we avoid the difficulty of attempting to evaluate whether or not the law of another sovereign is compatible with our policies. Some laws are not. Federal law, for example, allows some kinds of gender discrimination that might well be forbidden under the law of Wisconsin. In some states discrimination based on sexual orientation is permissible, however unwise it may seem to us, but we would be accused of arrogance, if not overreaching, if we purported to apply our local policies to those living and working lawfully elsewhere.

Third, we avoid the difficulties, if not impossibility, of trying to enforce our local law and policies in places where we lack the practical power to do so. When a Wisconsin employer discriminates improperly there are several enforcement agencies and well established complaint mechanisms available to complainants; several state agencies are ready and available to investigate and even to punish. When the discrimination occurs outside Wisconsin, however, we lack any meaningful means to investigate. Fairness dictates that we should not accept as fact every allegation of discrimination and fairness requires that those accused of discrimination have an opportunity to defend themselves.

Fourth, some types of discrimination are permissible because of a bona fide occupational qualification. Discrimination against the handicapped is prohibited unless a bona fide occupational qualification makes the handicap a relevant bar. The ability to drive, for example, might be a job qualification justifying elimination of the blind from some jobs. A university is in no position to judge whether or not every discriminatory practice is justified by the bona fide occupational qualification doctrine. The doctrine is complex, arguable, and much litigated. Nevertheless, we are aware that there are times when a university must attempt to judge whether occupational qualifications are justifiable or if they conceal illegal behavior.

Conclusions and Recommendations

The committee supports in principle the proposed administrative actions reported by Chancellor Shain to the Faculty Senate on October 4, 1982, as to compliance with the 1982 amendment to the Wisconsin Fair Employment Act.

The Wisconsin Attorney General issued an advisory opinion which stated that the Wisconsin statutes proscribing discrimination on the basis of sexual orientation did not apply to the Reserve Officer Training Corps. While the committee feels that the laws of the State of Wisconsin do not affect the federal government or its agencies, the University remains at liberty to promulgate its own rules and regulations apart from the laws of Wisconsin.

The redress for issues related to discrimination based on sexual orientation has been provided directly by Wisconsin law, but not by federal law. To address the issues outside of Wisconsin law adequately, the committee believes that federal legislation is necessary. The approach therefore is to support federal legislative initiatives. Establishing institutional priority for funding such initiatives at this time does not seem likely. Individuals and groups desiring to do so will need to organize, support and work for political solutions.

There are a number of actions which can be taken by the University of Wisconsin-Madison which would support the Wisconsin Fair Employment Practices Act and reaffirm faculty support for the policy of non-discrimination. Such actions are recommended as follows:

1. The users of placement office assistance may not limit contacts with students on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record or conviction record.
2. Employers who discriminate but are not under jurisdiction of Wisconsin law will be asked to provide information as to the reasons for their discrimination. Students will be informed of the discrimination and the reasons for the discrimination.
3. The campus placement offices shall follow the procedures required by Wisconsin law when claims of unlawful discrimination are leveled against an interviewer using placement facilities. We also recommend that a manual outlining these procedures be prepared and distributed.
4. All employer placement notices and confirmation of placement schedules, wherever appropriate, shall include the following statement of UW-Madison faculty policy:

"Any employer interviewing on campus will do so in accordance with the provisions of Title VII of the Federal Civil Rights Act, Wisconsin's Fair Employment Practices Statutes Sections 111.31 et. seq., and UW-Madison Faculty Document 542, 5 December 1983. These provisions prohibit discrimination on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record or conviction record. Penalties for violating these regulations and policies may include the denial of University facilities. Copies of these documents may be examined in all UW-Madison placement offices or the Affirmative Action Office, 175 Bascom Hall. Inquiries should be directed to these offices."

5. Each placement office on the UW-Madison campus is encouraged to develop a formal complaint system for all alleged discrimination. An example of a formal complaint form used in the Law School system is attached (Exhibit A).

6. Students should be strongly encouraged to play an active role in advising on placement office programs.

Ad Hoc Study Committee on Adherence to
University Policies on Non-Discrimination

Gordon Baldwin
Marc Bohn
Mark Borns
Roger Howard
Thomas Johnson
Robert Kauffman
Lola Lopes
Fern Mims
Phillip Myers
Robert Skloot
James Bower, Chair

The committee approved this report by a vote of 10 yes and 1 no. The initial vote in the committee was 7 yes and 1 no, with three members who were unable to attend the meeting when the report was approved subsequently voting yes. Mark F. Borns registered that his no vote be recorded and has filed the following minority report.

MINORITY REPORT

Although there is much in the committee's report with which I concur I cannot join with the majority. The committee's report stresses the reasons why the University cannot stand up to discrimination and the mission of the University to provide career opportunities. I prefer to stress the nefarious nature of discrimination and the steps which the University can take to combat it. I do not believe that the University is obligated to provide students job opportunities with bigoted employers.

The Wisconsin Legislature has stated that "...discrimination in employment...is likely to foment domestic strife and unrest, and substantially and adversely affect the general welfare of the state by depriving it of the fullest utilization of its capacities for production." Discrimination "...tends to deprive the victim of the earnings which are necessary to maintain a just and decent standard of living, thereby committing grave injury..." As I pointed out to the committee, what higher goal could a university have than allowing all to pursue knowledge on an equal footing according to their skills. A mind is a terrible thing to waste. I reject Gordon Baldwin's inane written reply: "Maybe so, but the world might be better off if some minds had been wasted."

I do not believe in the affirmative right of discrimination. Those who are consistent violators of the letter or spirit of non-discrimination laws should not be welcomed to the University. The University as a leader in thought should be in the forefront of protecting basic civil liberties. To claim that the free speech protections of the constitution allow discrimination is to blind oneself to much civil rights law and various provisions of the constitution.

Committee members only create an empty legal fiction by arguing that employers who interview in Wisconsin and make hiring decisions in their offices in other states do not fall under non-discrimination laws of the State of Wisconsin. The committee expends far too much creative energy in rationalizing why the University is powerless in its efforts to combat discrimination.

The committee recommends that:

The users of placement office assistance may not limit contacts with students on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record or conviction record.

The recommendation should read:

The users of University facilities...may not limit contacts...

In its current form the recommendation leaves a huge loophole. Any individual or group can easily frustrate the intent of the University policy by inviting discriminatory employers onto campus.

The committee also recommends:

Employers who discriminate but are not under jurisdiction of Wisconsin law must provide information as to the reasons for their discrimination. Students can be informed of their discrimination.

This recommendation lacks teeth. Providing information as to the reasons for discrimination should be a precondition to use of any University facility. The provision of information should be a mandatory prerequisite for use of facilities.

I would also add a recommendation:

Any employer who has been found to discriminate more than once in any given year should be banned from using University facilities for one year.

Mark F. Borns



David E. Clarenbach

SPEAKER PRO TEM OF THE ASSEMBLY

February 23, 1983

Margie Geld
State of California
30 Van Ness
San Francisco, CA 94102

Dear Ms. Geld:

I understand from my assistant, Dan Curd, that there has been some misunderstanding about the fiscal impact of Wisconsin's gay rights law, Chapter 112, Laws of 1981.

Mr. Robin Barkenhagen of our Department of Industry, Labor & Human Relations has confirmed to me that in the last calendar year (January 1 - December 31, 1982) there were 13 complaints filed with the state for discrimination based on sexual orientation out of a total of 3,328 discrimination complaints, or less than $\frac{1}{2}$ of 1% of their case load.

Chapter 112 went into effect on March 2, 1982, or for approximately 10 months of that calendar year. This law wasn't at any time enjoined. All this information will eventually be part of this agencies report to the legislature. In the meantime, I hope this letter will suffice.

Originally, each fiscal note prepared on 1981 Assembly Bill 70 (Chapter 112) indicated that it would have an insignificant fiscal impact for the state. After almost one year, all evidence supports those predictions.

If I can be of further information, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "David Clarenbach".

DAVID CLARENBACH
State Representative

422 North, State Capitol
Madison, Wisconsin 53702
608-266-8570

Flintrop

added to the application at the insistence of the county agency because he was a frequent resident in the home. Flintrop lost his seat in the Legislature in the 1982 elections.

The county denied the license, but the couple and Flintrop decided to appeal, even though it opened the door to publicity about the case.

State Hearing Examiner Sheila Jakobson reversed the county decision, and the state later denied the county request for an appeal. The county then decided to take the issue to court, making the case public.

"I see the issue of being able to be judged as a potential foster parent on the merits of my individual character strengths and weaknesses as a right that I should be entitled to," said Flintrop.

"There's a certain point where the broader issues merit what is obviously a very substantial personal sacrifice . . . and a great loss of personal privacy," said Flintrop.

Winnebago County also has claimed the license should be denied because both Malsin and Roblee had fulltime jobs that kept them away from the home, but Jakobson said they hired a babysitter to care for their own child and had presented a "reasonable and suitable" plan for caring for a teen in their absence.

The hearing examiner noted that the license would apply to teenagers who are attending high school on a fulltime basis.

Jakobson said both parents were highly qualified and that the county agency contention that the presence of a homosexual "does not fall within the minimum acceptable standards of our society" is an insufficient and inappropriate basis for denial of a foster home license . . .

Flintrop said he was reared in a family which had foster children for 15 years. "I've seen the personal benefits and the personal needs," he added.

Gay in foster home leads to license appeal

Winnebago County has asked the courts to decide if a foster home license should be granted to a home where one of the residents — former State Rep. Richard Flintrop — is a homosexual.

Flintrop, now executive director of the Council on Criminal Justice in the Earl administration, is a part owner of the Oshkosh residence that would be used as the foster home. The other owners are a married couple who reside at the home.

Flintrop spends most of his weekends in the Oshkosh home. He said he is working parttime at the Council on Criminal Justice post because he still has real estate interests. He is being paid a parttime state salary.

Flintrop told The Capital Times was "surprised and a little disappointed" that Winnebago County would contest the state's decision.

He recalled that he met regularly for eight years with social service officials in Winnebago County on legislative matters. He said he regularly worked on their concerns when he was in Madison.

The State Department of Health and Social Services approved a license for the residence, but Winnebago County has appealed the

issue to Winnebago Circuit Judge Thomas Williams. The county is contending Flintrop's occasional presence would be detrimental to a teenager's well-being.

The governor's office was informed about the case about two months ago, according to Daniel Wisniewski, the executive secretary to Gov. Anthony Earl. Flintrop said most key members of the governor's staff were aware of his homosexuality before he was appointed.

"All of my friends have known for some time that I'm gay," said Flintrop.

Wisniewski said Flintrop's lifestyle was never a factor in whether he should be appointed to state office. He noted that former Gov. Lee Dreyfus had signed a law making it illegal to consider sexual preference in employment matters.

"Dick Flintrop was appointed because he was eminently qualified. That's why he was appointed. Period," said Wisniewski.

The Oshkosh couple — Byron Malsin and Kathleen Roblee — applied for the foster home license more than a year ago. Flintrop's name was

(See FLINTROP, Page 5)

Wisconsin Law Prevails Over Chicago Firm

[New York, NY]- Lambda Legal Defense and Education Fund has announced that Bradner Smith and Co., a paper retail company based in Chicago, has agreed to include sexual orientation in its anti-discrimination policy in both its Wisconsin and Chicago offices in settlement of a complaint filed by a former Gay employee under the Wisconsin Fair Employment Act. In addition to the policy change in employment practices, the company has also agreed to a \$15,000 financial settlement.

The former employee, Keith LaBrecque, charged Bradner Smith with demoting and transferring him because fellow employees refused to work with a Gay man. LaBrecque had worked for Bradner Smith for two years as a customer service rep in the Chicago home office when, after receiving excellent performance evaluations, he was promoted and transferred to the Brookfield, Wisconsin office in June, 1986.

At the Wisconsin office, LaBrecque's co-workers and supervisor became uncooperative and thwarted his activities because he is Gay, LaBrecque charged. Shortly after a meeting with the company's president and vice president where, upon questioning, he stated that he was Gay, he was demoted and transferred back to the Chicago office. LaBrecque's total time in the Wisconsin office was under eight weeks.

The case is believed to be the first in the country in which a Wisconsin law, the only state-wide law in the U.S. to prohibit sexual orientation, was used to affect an employer based in another state.

Diane Houk of the Milwaukee firm of Jacobson, Sodos and Krings represented LaBrecque along with Paula L. Ettelbrick and Sandra J. Lowe of the New York-based Lambda Legal Defense.

Ettelbrick, Lambda's Legal Director, stated, "The most critical thing about this case is that the company agreed to institute a national policy for all of its offices, not just its Wisconsin office which was covered by the law. The strategy here is innovative because we're using the laws of one state to broaden the rights of Lesbians and Gay men in other jurisdictions."

Lowe stated that "It is imperative that Lesbians and Gay men file the type of complaints that Keith LaBrecque did so that we can utilize and expand our base of civil rights protection."

Wisconsin State Journal 11/29/83

Homosexual's claim of bias in firing gets state backing

LAKE GENEVA (AP) — A man who claims he was fired from the Lake Geneva Country Club because he is a homosexual may be the first person in Wisconsin to win a gay rights discrimination case under a year-old state law, a state official said Monday.

The Lake Geneva man, whose name has been withheld, was fired from his job the day after he appeared on a July 12 television news report in which he identified himself as gay, said LeAnna Ware, of the Equal Rights Division of the state Department of Industry, Labor and Human Relations.

The man filed a complaint July 22 with the division, charging he was fired strictly because is a homosexual, Ms. Ware said. The country club has said the man was discharged for unsatisfactory work performance, she said.

Ms. Ware, who investigated the case for the division, ruled Oct. 12 that there was probable cause for discrimination.

"The employer was unable to document anything to prove unsatisfactory work performance," she said. "Payroll records show he was working an increasing number of hours."

Ms. Ware said a division representative was in the process of getting the parties together to negotiate

a settlement. She said it was the first gay rights case to reach the conciliation stage since the sexual orientation portion of the Wisconsin Fair Employment Law was passed in May 1982.

If conciliation is not reached, she said a public hearing would be held and a division hearing examiner would make a final ruling.

The Ten Percent Society
Memorial Union Box 614
800 Langdon Street
Madison, wi 53706

Dean of Students Office
Bascom Hall
500 Lincoln Drive
Madison, wi 53706

Dear Ms. Rouse,

Dec 2, 1983

The University of Wisconsin-Madison's 1984 Undergraduate Bulletin states that "quality and diversity" are attributes that set the UW apart "making it one of the nation's great universities." It is further declared in this publication that

In conformance with applicable federal and state regulations, UW-Madison does not discriminate on the basis of race, sex, handicap, religion, age, national origin, or veteran's status with regard to treatment of students in the educational programs or activities which it operates.

We would like to draw your attention to the first part of this statement, which mentions state law. State law, in addition to protecting the rights of persons on the basis of those items mentioned above, also protects against discrimination on the basis of sexual orientation. In keeping with the high standards of "quality and diversity" to which the university aspires, we suggest that the statement quoted above be appended to include the category of sexual orientation as follows:

In conformance with applicable . . .
UW-Madison does not discriminate on
the basis of age, handicap, national
origin, race, religion, sex, sexual
orientation, or veteran's status with
. . .

Specifically, we would like to see this change made in all university publications which contain disclaimers. We also suggest that the university consider appending those categories protected under state law which are not presently included.

We hope we can meet with you and other members of the Dean of Students Office in the near future to discuss the disclaimer as it now appears in university publications and possible improvements in its wording and placement.

The University of Wisconsin System



OFFICE OF THE PRESIDENT

1700 Van Hise Hall
Madison, Wisconsin 53706
(608) 262-2321

NOV 29 REC'D

November 22, 1983

M e m o r a n d u m

To: Thomas J. Crawford
David Clarenbach
Marcia P. Coggs
Russell D. Feingold
Dismas Becker
Barbara Ulichny
John Norquist
Rod Johnston

From: Robert M. O'Neil *Ron*

Re: Nondiscrimination Based on Sexual Orientation

Thank you very much for bringing to my attention possible gaps in University of Wisconsin System documents concerning nondiscrimination. We will proceed at once to take all necessary steps to ensure that our policies, provisions, and documents are in compliance with Chapter 112, Laws of 1983, prohibiting discrimination based on sexual orientation. We do appreciate your having reminded us of our new and continuing obligations in this area of nondiscrimination.

I am enclosing for your information copies of two documents which deal with nondiscrimination on the basis of sexual preference. The first (attachment 1) is the standard language for UW System contracts for materials; attachment 2 contains similar standard language for contracts for services. Both clauses prohibit contractors from discriminating on the basis of sexual orientation. If you are aware of any other particular UW System documents which do not appear to be in compliance with Chapter 112, Laws of 1983, please do not hesitate to call.

Attachments

- 16.0 NON-DISCRIMINATION: In connection with the performance of work under any contract resulting from this bid request, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability [as defined in s. 51.01(5)] sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation [s. 51.01(5)] the contractor further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.
- 17.0 PATENT INFRINGEMENT: Bidder(s) offering for sale to the University the articles described herein, guarantee the articles were manufactured or produced in accordance with applicable Federal Labor Laws; and further that the sale or use of them will not infringe upon any United States Patent, and covenants that they will at their own expense, defend every suit which shall be brought against the University (provided that the bidder is promptly notified of such suit, and all papers therein are delivered to him) for any alleged infringement of any patent by reason of the sale or use of such article or articles, and agrees that he will pay all costs, damages, and profits recoverable in any such suit.
- 18.0 QUALITY LEVEL: Unless otherwise indicated, all material shall be first quality. Items which are used, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the University Purchasing Office.
- 19.0 QUANTITIES: The quantities shown on this Request for Bid are based on our estimated needs. We reserve the right to increase or decrease quantities to meet actual needs or availability of funds.
- 20.0 SAFETY REQUIREMENTS: All material, equipment and supplies provided to the University must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code, Rules of the Industrial Commission on Safety, and all applicable OSHA Standards. When furnishing toxic or hazardous materials as defined in Subpart "Z" of the U.S. Occupational Safety and Health Standards, the contractor shall furnish the appropriate OSHA Form 20, "MATERIAL SAFETY AND DATA SHEET", for each such item furnished.
- 20.1 During the course of performing the service necessary to satisfy the requirements of this request for bids the contractor is fully liable for public and private protection while work is in process or at any site exposed as a potential hazard. The contractor must provide warning devices and/or signs which shall be prominently installed and displayed and be fully in compliance with the aforesaid safety regulations.
- 21.0 SPECIFICATIONS: The specifications in this Request for Bid are the minimum acceptable. When specific manufacturer and model numbers are used, it is to establish a design, type, construction, quality, functional capability and/or performance level desired. Alternates or substitutions may be bid.
- 22.0 SUBSTITUTIONS: When substitutions are bid they must be identified by manufacturer and stock number and other descriptive information to establish equivalency. The University shall be the sole judge of equivalency.
- 23.0 TAXES: The University is exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise, occupational, or use taxes as described below.
- 23.1 The University is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on these purchases.
- 23.2 Contractors performing construction activities are required to pay state use tax on the cost of materials.
- 23.3 Registration No. 39-73-1021-K was issued to the State of Wisconsin by the IRS to authorize tax-free transactions under Chapter 32 of the Internal Revenue Code. This registration number is on file with the District Director, U.S. Treasury Department, Internal Revenue Service, Milwaukee, Wisconsin.
- 23.4 The Wisconsin Department of Revenue does not issue Sales Tax exempt number(s) to the University as the University is statutorily exempt as a State agency under s.s. 77.54(9a).
- 24.0 WARRANTY: Unless otherwise specifically stated by the bidder, equipment purchased as a result of this Request for Bid shall be warranted against defects by the bidder for 90 (ninety) days from date of receipt. Equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.

1.12 CONTRACT TERMINATION

The institution may terminate this contract for neglect as determined by the institution which shall consider such items as: insufficient insurance coverage, failure to provide required period statements or to pay period commission payments due on or before the 15th day following the period in which they were earned, failure to enforce required standards of sanitation, failure to keep wage payments to employees current or quality of service is unsatisfactory to the institution. This may include any cessation or diminution of service including but not limited to failure to maintain adequate personnel, whether arising from labor disputes, or otherwise any substantial change in ownership or proprietorship of the contractor which in the opinion of the institution is not in its best interest or failure to comply with the terms of the contract.

The institution shall provide ten (10) calendar days written notice of contract neglect and unless within (10) calendar days such neglect has ceased and arrangements made to correct the institution may terminate the contract by giving sixty (60) days notice in writing by registered or certified mail of its intention to cancel this contract.

Should the institution breach any terms or provisions of this contract, the contractor shall serve written notice on the institution setting forth the alleged breach and demanding compliance with the contract. Unless within ten (10) calendar days after receiving such notice, the allegation shall be contested or such breach shall cease and arrangements made for corrections, the contractor may terminate the contract by giving sixty (60) days notice in writing by registered or certified mail of its intention to cancel this contract.

1.13 NON-DISCRIMINATION

In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in S. 51.01(5), sexual orientation as defined in Sec. 111.32(4S) or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor further agrees to take affirmative action to insure equal employment opportunities. The contractor agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.

1.14 AFFIRMATIVE ACTION

Contracts that are ten thousand dollars (\$10,000) or more require the submission of a written affirmative action plan. Contractors with an annual work force of less than ten employees are excluded from this requirement.

Within fifteen (15) days after the award of the contract, the affirmative action plan shall be submitted to U.W. System Purchasing Office, 1930 Monroe Street, Madison, WI, 53711.



8

Thomas J. Crawford

**State Representative
14th Assembly District**

November 3, 1983

Robert M. O'Neil, President
University of Wisconsin
Room 1720, Van Hise Hall
Madison, WI 53706

Dear President O'Neil,

Earlier this month, the Governor's Council on Lesbian & Gay Issues on behalf of Governor Earl requested that the Secretary of the Department of Administration review the standard non-discrimination provisions in all contracts and documents used by agencies to make sure they comply with the current statutory provisions.

Chapter 112, Laws of 1983, passed by the Legislature early in 1982, prohibits discrimination based on sexual orientation. Contracting agencies of the state (including the University) are required to include certain obligations in contract language.

It has come to our attention that certain form documents being used by the University of Wisconsin at this time are not in compliance with state law. We would appreciate your prompt cooperation to see that all such materials are reviewed and that the necessary changes are made immediately.

Thank you for your attention to this matter.

Sincerely yours,

TJC/mks

Home: 1539 N. 50 Street, Milwaukee, WI 53208 • (414) 258-6693
Office: 107 West, State Capitol, P.O. Box 8952, Madison, WI 53708 • (608) 266-0660
Legislative Hotline (toll-free) • 1-800-362-9696

The University of Wisconsin System



MAR 19 RECD

OFFICE OF THE PRESIDENT

March 16, 1984

1700 Van Hise Hall
Madison, Wisconsin 53706
(608) 262-2321

Representative David Clarenbach
422 North, State Capitol
Madison, Wisconsin 53702

Dear David:

I very much appreciate the additional information concerning complaints with Chapter 112, Laws of 1981. We have focused chiefly at the comprehensive policy level and have not yet completed the detailed review of individual campus publications, statements and the like.

Your suggestion of a Systemwide disclaimer of discrimination on the basis of sexual orientation strikes me as a potentially useful next step. What I should like to do is to discuss this prospect with the Chancellors at an early opportunity. Sometime later this spring I will promise to report back to you with a fuller account of our steps toward compliance and implementation. Meanwhile I very much appreciate the additional information.

Very sincerely,

Robert M. O'Neil
President

RMON:lc

Robert M. O'Neil, President
University of Wisconsin
Room 1720, Van Hise Hall
Madison, WI 53706

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Sincerely,

(Signatures)



Thomas J. Crawford

**State Representative
14th Assembly District**

October 25, 1983

Robert M. O'Neil, President
University of Wisconsin
Office of the President
Room 1720, Van Hise Hall
Madison, WI 53706

Dear President O'Neil,

The passage of 1982 Assembly Bill 70, sec. 111.32(13m), Wis. Stats., clearly set the legislative intent that all organizations contracting with the state of Wisconsin or its agencies not discriminate on the basis of sexual orientation. This prohibition on discrimination includes but is not limited to state civil service, housing, employment, public accommodations, state contracting agencies and licensing agencies.

The contracts that the University System enter into with the Department of Defense providing for the Military Science department are covered by the state's non-discrimination statutes, contrary to the Attorney General's Opinion (informal opinion, April 5, 1983, addressed to the Honorable Barbara Ulichny). It is recognized that a state government cannot govern the federal government, but preemption is not the issue. When a state agency enters into a contract with any contractor, including the federal government, the state agency must abide by state law, regardless of who the contractor is.

The Department of Defense openly states, under the Uniform Code of Military Justice, that they do discriminate on the basis of sexual orientation. We hope you will take action to ensure that both the intent and the letter of the law are complied with. We request that you amend all standing contracts with the Department of Defense to comply with 1982 Assembly Bill 70.

Sincerely,

:mks

FROM THE APPLETON
POST-CRESCENT 12-11-83

The Dick Flintrop case: License for a homosexual?

Dick Flintrop may never again be able to walk the streets of his hometown, Oshkosh, without wondering whether that person looking at him is chuckling to himself because he knows Flintrop is homosexual.

Flintrop brought it on himself, with assistance from The Post-Crescent, which decided that it could not ignore a story of such significance. The fact that Flintrop used to be a highly respected state legislator and is now director of the state Council on Criminal Justice weighed heavily in our decision to print the story.

But our purpose today in raising the issue again is not to point a finger at Flintrop, but to let him and our readers know that we respect him for going public as he did. We respect him for his motives, which we do not question, in seeking a foster home license. We respect him for talking at length and candidly with a Post-Crescent reporter, with the knowledge that we would print everything he said.

Having said all that, we will not go the next step and take Flintrop's side on the issue of the foster home license. Neither do we oppose it, but we think a question bears raising.

CONTINUED ON PAGE TWO FLINTROP

As an operator of a foster home, Flintrop would be a role model for youths. Homosexuality, though not illegal in Wisconsin, is on the fringe of what many, if not most, residents of the state would consider acceptable adult behavior. Should Winnebago County send a message to children being placed in foster homes that it condones that sort of fringe activity, that it wants them to respect homosexuals?

The time will come when homosexuals will have the respect of their neighbors for who they are and for what they do in public, not for their innermost thoughts and private sexual lives.

Society has determined that a person's sexual life is a private matter. Wisconsin lawmakers have enacted a statute — the consenting adults bill — which permits many of the forbidden practices of earlier times — cohabitation, fornication and other acts that even married couples could not legally partake in.

No longer is the broadly defined "sexual perversion" considered a crime, so long as the acts, now identified as "sexual gratification," are not done in public and so long as minors are not involved.

We would like to think that the public's attitudes on homosexuals would be consistent with this legislation. But we recognize that they aren't.

FROM THE MILWAUKEE JOURNAL
SUNDAY JAN. 1, 1984

Homosexual's claim of bias in firing gets state backing

LAKE GENEVA (AP) — A man who claims he was fired from the Lake Geneva Country Club because he is a homosexual may be the first person in Wisconsin to win a gay rights discrimination case under a year-old state law, a state official said Monday.

The Lake Geneva man, whose name has been withheld, was fired from his job the day after he appeared on a July 12 television news report in which he identified himself as gay, said LeAnna Ware, of the Equal Rights Division of the state Department of Industry, Labor and Human Relations.

The man filed a complaint July 22 with the division, charging he was fired strictly because is a homosexual, Ms. Ware said. The country club has said the man was discharged for unsatisfactory work performance, she said.

Ms. Ware, who investigated the case for the division, ruled Oct. 12 that there was probable cause for discrimination.

"The employer was unable to document anything to prove unsatisfactory work performance," she said. "Payroll records show he was working an increasing number of hours."

Ms. Ware said a division representative was in the process of getting the parties together to negotiate

a settlement. She said it was the first gay rights case to reach the conciliation stage since the sexual orientation portion of the Wisconsin Fair Employment Law was passed in May 1982.

If conciliation is not reached, she said a public hearing would be held and a division hearing examiner would make a final ruling.

Wisconsin Law Prevails Over Chicago Firm

[New York, NY]- Lambda Legal Defense and Education Fund has announced that Bradner Smith and Co., a paper retail company based in Chicago, has agreed to include sexual orientation in its anti-discrimination policy in both its Wisconsin and Chicago offices in settlement of a complaint filed by a former Gay employee under the Wisconsin Fair Employment Act. In addition to the policy change in employment practices, the company has also agreed to a \$15,000 financial settlement.

The former employee, Keith LaBrecque, charged Bradner Smith with demoting and transferring him because fellow employees refused to work with a Gay man. LaBrecque had worked for Bradner Smith for two years as a customer service rep in the Chicago home office when, after receiving excellent performance evaluations, he was promoted and transferred to the Brookfield, Wisconsin office in June, 1986.

At the Wisconsin office, LaBrecque's co-workers and supervisor became uncooperative and thwarted his activities because he is Gay, LaBrecque charged. Shortly after a meeting with the company's president and vice president where, upon questioning, he stated that he was Gay, he was demoted and transferred back to the Chicago office. LaBrecque's total time in the Wisconsin office was under eight weeks.

The case is believed to be the first in the country in which a Wisconsin law, the only state-wide law in the U.S. to prohibit sexual orientation, was used to affect an employer based in another state.

Diane Houk of the Milwaukee firm of Jacobson, Sodos and Krings represented LaBrecque along with Paula L. Ettelbrick and Sandra J. Lowe of the New York-based Lambda Legal Defense.

Ettelbrick, Lambda's Legal Director, stated, "The most critical thing about this case is that the company agreed to institute a national policy for all of its offices, not just its Wisconsin office which was covered by the law. The strategy here is innovative because we're using the laws of one state to broaden the rights of Lesbians and Gay men in other jurisdictions."

Lowe stated that "It is imperative that Lesbians and Gay men file the type of complaints that Keith LaBrecque did so that we can utilize and expand our base of civil rights protection."

'Mother's revenge' cites causes of Catholic priest shortage

By MARJORIE HYER

Washington Post News Service

CHICAGO — The Roman Catholic Church is running out of priests in the United States.

While church membership continues to climb, statistical projections show that by the year 2000, the current total of almost 58,000 priests will decline by 50 percent and the majority of them will be 60 or over, members of a conference on church vocations were told.

ing, even producing serious oversupply problems in such churches as the Episcopal, Presbyterian and Lutheran.

The reason for Catholic shortages, Rev. Richard P. McBrien of Notre Dame University said, "must be factors peculiar to Catholicism and to the Catholic priesthood as presently structured."

Recent research commissioned for the conference cites five uniquely Catholic factors: celibacy, required in the Catholic priesthood since the 11th century; the necessity of a lifelong commitment; a male-only limitation; the pressure for a lifestyle and manner of dress that sets one apart from society, and little or no opportunity for economic advancement.

To this list, several experts here added a sixth element, which William C. McCready only half jokingly termed "the revenge of Catholic motherhood."

Linking the vocation crisis to the role of women in the Catholic Church, the program director of the Chicago-based National Opinion Research Center said, "Catholic women, particularly younger women, are quite

Gay in foster home leads to license appeal

Winnebago County has asked the courts to decide if a foster home license should be granted to a home where one of the residents — former State Rep. Richard Flintrop — is a homosexual.

Flintrop, now executive director of the Council on Criminal Justice in the Earl administration, is a part owner of the Oshkosh residence that would be used as the foster home. The other owners are a married couple who reside at the home.

Flintrop spends most of his weekends in the Oshkosh home. He said he is working parttime at the Council on Criminal Justice post because he still has real estate interests. He is being paid a parttime state salary.

Flintrop told *The Capital Times* was "surprised and a little disappointed" that Winnebago County would contest the state's decision.

He recalled that he met regularly for eight years with social service officials in Winnebago County on legislative matters. He said he regularly worked on their concerns when he was in Madison.

The State Department of Health and Social Services approved a license for the residence, but Winnebago County has appealed the

issue to Winnebago Circuit Judge Thomas Williams. The county is contending Flintrop's occasional presence would be detrimental to a teenager's well-being.

The governor's office was informed about the case about two months ago, according to Daniel Wisniewski, the executive secretary to Gov. Anthony Earl. Flintrop said most key members of the governor's staff were aware of his homosexuality before he was appointed.

"All of my friends have known for some time that I'm gay," said Flintrop.

Wisniewski said Flintrop's lifestyle was never a factor in whether he should be appointed to state office. He noted that former Gov. Lee Dreyfus had signed a law making it illegal to consider sexual preference in employment matters.

"Dick Flintrop was appointed because he was eminently qualified. That's why he was appointed. Period," said Wisniewski.

The Oshkosh couple — Byron Malsin and Kathleen Roblee — applied for the foster home license more than a year ago. Flintrop's name was

(See FLINTROP, Page 5)

+ JS

I talked to Dick Sweet re: Chapter 112 and University

Bottom line seems to be that all is a "misunderstanding" and the UW is going to take action to see that sexual orientation is included in all of its disclaimers re: discrimination.

Sweet talked to Michael Leithan at UW who claims he never said that UW was exempt from law, but he did say UW admissions seemingly are not covered by Wisconsin Statutes period. Race discrimination is protected by federal civil rights act, but none of the other protected classes. However, UW did adopt a policy re: non-discrimination in 1979 that includes sexual orientation.*

The whole thing seems to be mute since, Leithan says they are going ahead and seeing that appropriate language is incorporated where needed.

Dick Sweet says you can make argument that admissions are covered, however, because Section 1 of Chapter 112 (STATS: 15.04(1)(g) charges all agency heads, including specifically the Board of Regents to prohibit discrimination based on sexual orientation and to remedy it where it exists -- he personally this catchall clause would cover this situation.

FRYCOLIDA
FOX BILLY BOND

Few gays in state filing bias complaints

By Gary Radloff

Special to The Journal

Madison, Wis. — Wisconsin's law forbidding discrimination against gays has been on the books 15 months and has generated just 21 complaints.

But state officials do not take that number as a measure of the problem.

"It's a mistake to say you only have 21 complaints, therefore no problem," claims Fran Tyron, administrator of the Equal Rights Division of the Department of Industry, Labor and Human Relations.

"We receive many more calls and inquiries regarding this part of the law," he said.

Fifteen of the complaints on file are job discrimination cases and six concern the denial of public access.

The law prohibits any discrimination based on sexual orientation. But all 21 complaints have dealt with discrimination against homosexuals.

Nine complaints are from Madison, six from Milwaukee, two from Eau Claire, and one each from Oregon, Shorewood, Green Bay, and Cudahy.

The statements filed with the Equal Rights Division detail alleged harassment.

One complaint filed against a Madison restaurant alleged:

"I was fired because of sexual orientation. All gay or lesbian employees were being moved out of contact with customers. I was told I would have to remove my earring. My immediate manager told me that 'under the circumstances a pink slip' would have been more appropriate."

Tyron cited several reasons why more complaints might not have been filed:

"We do not have to declare we are black, or we are women [in filing a complaint]. People have to declare they are gay or lesbian. They may face additional problems once it is

Turn to **Bias**, Page 7

Few gays file bias complaints

Bias, From Page 1

known that they are gay or lesbian."

The Equal Rights Division has been publicizing this new category of the law. But Tyron said this has been difficult. "It is not easy to target this group. They do not, for example, show up on the census data."

Delays in process

Other reasons for this limited number of complaints may be the delays in the grievance process, attorney fees and unsatisfactory remedies.

"Would you rather stay somewhere you're unwelcome?" asks Dale Sprang, a member of the Governor's Council on Gay and Lesbian Issues.

"Why file a housing discrimination complaint under these circumstances?" Sprang asked. "The

How to file

Filing a discrimination complaint with the Wisconsin Equal Rights Division requires a notarized form. The complainant must describe the adverse action, the alleged discrimination and the protected category [such as race or sex].

The division will notify the employer or provider of housing, who then has five days to respond to the complaint.

Barring a settlement at this point, a detailed investigation begins. The division tries to determine whether probable cause exists to think discrimination took place.

If probable cause is found, the division tries to reconcile the parties. If no conciliation is reached, a formal public hearing is scheduled before an Equal Rights hearing examiner.

The examiner's decision may be appealed to the Labor and Industry Review Commission, or, beyond that, to state court.

For more information, contact the Equal Rights Division in Madison, (608) 266-6860, or in Milwaukee (414) 224-4384.

benefits gained from filing a complaint have to be weighed against the potential media exposure."

In another case, a complaint filed against a large department store chain located in Madison alleged: "My supervisor told me, 'The word is out on me [that I am lesbian]', that the gay man who works for the respondent was OK, but that a gay woman was different and I should not talk about my private life like the other hairdressers do."

Dick Wagner, co-chairman of the governor's council, said: "People will still lose their jobs because they are gay or lesbian despite this law being on the books."

"The law has to be more than mere words on paper. It has to provide real protection to people in small towns in this state. In many communities, there is a climate of fear."

Gays are cautious

Even in the state's urban areas, gays are cautious about 'coming out.' Sprang estimated that only 10% of the gay population was visible in Milwaukee.

"Milwaukeeans are very independent people," he said. "It is not as important that they reveal they are gay. They interact with other parts of society and in the industrial work where it is better not to come out."

Wagner said Madison's gay population was slightly more visible — maybe 15% to 20%.

"The employment dimension is easier in Madison. It is easier for gays in the professions, both public and private, to come out," he said.

On the other hand, Wagner contended that the University of Wisconsin environment remained relatively cautious. He said gay faculty members feared going public, primarily because of tenure pressures.

Madison has ordinance

Madison had passed its own city ordinance banning discrimination by sexual preference in 1975. Fourteen cases were filed with the city's Equal Opportunity Commission between 1975 and the passage of the state law.

One such complaint involved a man who was told to move from his apartment and who has been contesting that eviction since. He believes he was evicted because someone didn't want to live in the same building as gays.

He believes that if the state's equal rights law had been changed to include sexual orientation before his case arose, he could not have been thrown out of his apartment.

Wisconsin is the only state to have passed a law including sexual orientation among its "protected classes" — groups specified in anti-discrimination statutes.

A few other states have such a policy by executive order, but it affects only public employees.

Wisconsin's law adds sexual orientation to the other protected categories of age, race, religion, color, sex, handicap, national origin, ancestry, marital status and arrest record or conviction record.

Wagner said he believed that the state law would eventually provide job security for gays and lesbians.

"In essence," he said, "the law says: 'You don't have to take it.' And the law sets the tone for the state."

3 MS 6/20/83

Tax delinquencies up 47%

ZMJ 6/20/83

By Eugene C. Harrington
Journal Madison Bureau

Madison, Wis. — More and more Wisconsinites fell behind on their property taxes in 1982, the State Department of Revenue said Monday.

Delinquent real estate taxes in Wisconsin in 1982 totaled \$104.17 million — an increase of 47% over unpaid property taxes in 1981, the agency reported.

Sylvan Leabman, administrator of the Division

of State and Local Finance, attributed the increase to last year's economic slump.

In 1981, the amount was \$70.55 million; in 1980, \$50.07 million.

Although the highest dollar totals of delinquencies came in the most populous counties, the highest ratios between delinquencies and total real estate taxes occurred in small, rural counties.

They included Menominee, where 33.5% of the levied property taxes remained unpaid; Sawyer, 20.7%; Burnett, 17.1%; Bayfield, 16.1%; Douglas,

15.6%; Iron, 14.6%; Florence, 12%; Ashland and Marinette, 11.5%, and Rusk, 11%.

For the entire state, 4.5% of all real estate taxes were delinquent, compared with 3.5% in 1981, it was 2.7% in 1980 and 2.3% in 1979.

Milwaukee County — not counting delinquencies in the City of Milwaukee — had the lowest ratio between delinquencies and total real estate taxes, 1.5%.

Leabman said the high rate of delinquency Turn to Taxes, Page 6

On, Wisconsin

An Editorial

Democrats abuse budget process

It is probably inevitable that legislators will clutter a budget bill with some extraneous items, but the Assembly Democrats have carried the practice to extremes by inserting a blatantly partisan reapportionment plan in the 1983-85 budget.

Ideally, the lawmakers shouldn't even be drawing the legislative district lines on their own. There's too much temptation for them to distort district lines for individual or partisan advantage. Reapportionment should be based on the recommendations of a nonpartisan commission.

However, even if the Democrats insist on doing the job themselves, they should at least be reasonable enough to handle the matter in separate legislation, so it could be thoroughly examined and debated in public.

In another inexcusable action, Democrats in both the Senate and the Assembly have used the budget to short-circuit a bipartisan agreement previously reached on the thorny problem of unemployment compensation. The budget includes \$20 million a year in employers' taxes, on top of what was agreed on in good faith by the bipartisan panel that Gov. Earl had appointed, and by legislators on both sides of the aisle.

Before the budget is finally adopted, there is still time for the Democrats to correct both mistakes. However, the legislators will have to move swiftly.

If they don't, the governor should not hesitate to correct the transgressions with his item veto power. His credibility with business leaders and Republican legislators is on the line in the UC matter, and orderly government process is at stake in the reapportionment case.

Increase tied to economy

Taxes, From Page 1

cles — and its steady rise over the last four years in concert with high unemployment — could lead to bond rating problems for the state's municipalities.

He said the International City Managers Association had said a delinquency rate between 2% and 3% of total taxes was considered normal, but when the rate rose between 5% and 8%, negative ratings could be applied by bonding companies.

The department report showed that 46 of the 72 counties had ratios of 5% or more.

Leabman said he could not immediately pinpoint municipalities where this could be a problem, since his division for the time being was dealing with countywide totals, rather than with municipal levels.

Perhaps the only bright note, Leabman said, was that an additional interest payment for delinquent taxes, imposed under a 1982 law, apparently had helped stem the delinquencies.

He noted that 26 of the 72 counties had adopted ordinances permitting a penalty of up to 6% and two others will apply the additional penalty to delinquent taxes in 1983.

"Our analysis indicates that counties that im-

posed the penalty effective in 1982 experienced delinquency rates below the statewide median," he said.

The 1983-'85 budget bill, now being debated in the Legislature, would change the penalty from a flat 6% to one-half a percentage point each month.

"We hope that this modification will create more of an incentive for prompt payment of overdue property taxes," he said.

The current 6% penalty is in addition to the 1% per month interest rate that is already charged on such delinquent taxes.

Excluding the City of Milwaukee, delinquent real estate taxes in 1982 totaled \$8.44 million in Milwaukee County.

Figures for other counties included: Dane, \$7.23 million; Waukesha, \$5.85 million; Rock, \$4.59; Kenosha, \$3.27 million; Winnebago, \$2.91 million; Racine, \$2.83 million; Walworth County, \$2.48 million; Marathon, \$2.19 million; La Crosse, \$2.09 million; Marinette, \$2.04 million, and Sheboygan, \$2.01 million.

State may sue over ferry funds

Madison, Wis. —AP— Wisconsin Transportation Secretary Lowell B. Jackson says the state will decide this month whether to sue the state of Michigan for \$1 million in subsidies paid to the former Ann Arbor Railroad ferry across Lake Michigan.

Jackson, citing an audit, is pressing for money that his department said exceeded what was owed Michigan between April 1976 and September 1977 to keep the ferry operating.

It was during that period that Conrail, which took over six bankrupt railroads in 1976, had a role in the ferry service between Frankfort, Mich., and Kewaunee, Wis.

Former Govs. Patrick Lucey of Wisconsin and William Milliken of Michigan negotiated a pact that summer to keep the rail-car ferry line operating with help from two states and the federal government.

The ferry shut down 14 months ago, idling some 200 Ann Arbor Railroad employees. Those employees are pressing Michigan officials to resume the ferry operation.

Jackson, accused of being unenthusiastic about helping Michigan when he was transportation secretary under former Republican Gov. Lee Dreyfus, has resisted efforts to appropriate \$500,000 in state money in Wisconsin to continue the subsidy. He has been renamed transportation secretary by Democratic Gov. Anthony Earl.

"The feud is still open," Jackson said last week. "We don't feel there is any overpayment by Wisconsin," said John Kaiser, spokesman for Michigan's water transportation office.

Jackson said Wisconsin auditors Dennis Schultz and Douglas Meek became suspicious last summer when Michigan sent Wisconsin a check for \$101,260 to cover part of the subsidy, and discovered that Michigan owed another \$905,843.

"It is a little untidy having that kind of an audit around," Jackson said.

Wisconsin officials said the subsidy agreement was modified several times, possibly resulting in a misunderstanding of its provisions.

Milwaukee Cty. housing ordinance delayed again

By Paul Cotton

The proposed Milwaukee County housing ordinance that includes protection for gay men and lesbians has been delayed again.

County Supervisor Paul Henningsen (10), the ordinance's sponsor, said it was tabled at an Oct. 6 county board meeting because of a negative opinion issued by the county's attorney.

"State law had a few technical omissions in it, in the opinion of the corporation counsel, requiring a change in state law before we can act," said Henningsen. "In other words, we could pass it, but it would probably end up in court."

Henningsen said the state Attorney General will have to render an opinion before further action can be taken.

"He could say, 'Yes, go ahead and do this,' or

Christian Gay OK group forms

A new non-denominational support group has formed for gay and lesbian Christians. Christian Gay OK holds meetings at 7 p.m. Tuesdays and 9 a.m. Saturdays. These are not religious services but discussions of issues relative to being both Christian and gay. For more information, write CGOK, P.O. Box 92727, Milwaukee 53202, or call 374-3568.

he could lay out specifically how state law should be changed so we can do it," said Henningsen. "The delay is frustrating, but we have to do this thing right."

Acting Corporation Counsel George E. Rice said language in the ordinance, "especially as it relates to subject matter, jurisdiction and content, far exceeds the delegation of authority granted by the Legislature. Hence, the proposed recommended ordinance would be subject to challenge, and it is therefore my opinion that it should not be adopted [enacted] in its present form without drastic revision."

Rice believes the county ordinance would be superseded by municipal fair housing laws. Such laws are on the books in 17 of Milwaukee County's 19 municipalities, but only three—Milwaukee, West Allis, and Shorewood—include provisions against sexual orientation discrimination.

"I have resolved that the Legislature intended that the county only may exercise this delegation of the police power in a municipality which has not adopted a fair housing ordinance and that a provision to this effect should be inserted in any future revised county ordinance," said Rice.

Supporters had expected the ordinance to pass on an extremely close vote Oct. 6 if Rice's opinion had been favorable.

ommission in law he's referring to isn't in Chapter 112 but home rule law affecting counties -- seemingly, only municipalities have right to pass ordinances affecting housing.

Same issue came up when Dane County passed their ordinance prohibiting discrimination based on sexual orientation (ordinance didn't include housing). Since then Dane County passed resolution stating it would be county's policy not to discriminate if they had power to regulate housing.

letter to
Henningson -
or would he
know this?



Thomas J. Crawford

**State Representative
14th Assembly District**

October 25, 1983

Robert M. O'Neil, President
University of Wisconsin
Office of the President
Room 1720, Van Hise Hall
Madison, WI 53706

Dear President O'Neil,

The passage of 1982 Assembly Bill 70, sec. 111.32(13m), Wis. Stats., clearly set the legislative intent that all organizations contracting with the state of Wisconsin or its agencies not discriminate on the basis of sexual orientation. This prohibition on discrimination includes but is not limited to state civil service, housing, employment, public accommodations, state contracting agencies and licensing agencies.

The contracts that the University System enter into with the Department of Defense providing for the Military Science department are covered by the state's non-discrimination statutes, contrary to the Attorney General's Opinion (informal opinion, April 5, 1983, addressed to the Honorable Barbara Ulichny). It is recognized that a state government cannot govern the federal government, but preemption is not the issue. When a state agency enters into a contract with any contractor, including the federal government, the state agency must abide by state law, regardless of who the contractor is.

The Department of Defense openly states, under the Uniform Code of Military Justice, that they do discriminate on the basis of sexual orientation. We hope you will take action to ensure that both the intent and the letter of the law are complied with. We request that you amend all standing contracts with the Department of Defense to comply with 1982 Assembly Bill 70.

Sincerely,

:mks



State of Wisconsin
Office of the Governor

OCT 31 1983

Anthony S. Earl

October 24, 1983

Ms. Doris Hanson
Secretary, Department of Administration
101 South Webster, 8th Floor
Madison, Wisconsin 53702

Dear Ms. ^{Doris}Hanson:

We have a special request to make of your agency which will assist us in carrying out the task of ending discrimination on the basis of sexual orientation against lesbians and gay men in Wisconsin.

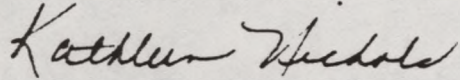
Chapter 112, Laws of 1981, passed by the Legislature early in 1982 and published on March 2, 1982, prohibits discrimination on the basis of sexual orientation. A copy is attached. Note that Section 1 amends 15.04(1) which relates to the powers and duties of heads of departments and independent agencies. Section 2 specifically requires "contracting agencies of the state" to include certain obligations in contract language.

Recently, several individuals have indicated that some state contracts have not had language regarding the full range of non-discrimination categories. We therefore are requesting that you review the standard non-discrimination provisions in your contracts to see that they comply with the current statutory provisions. We would appreciate receiving from you the form documents used by your agency highlighting the non-discrimination provisions. If revisions to your documents are required, information on the timetable for use of revised forms is requested.

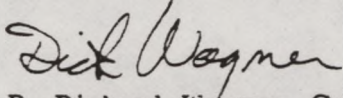
Should you have questions of a policy nature, please feel free to ask us. If your questions are of a legal nature, Danae Davis Gordon, Legal Counsel to the Governor, may be able to assist you or direct your inquiry to the appropriate legal authority.

We appreciate your prompt cooperation in this matter.

Sincerely,



Kathleen Nichols, Co-Chair
Governor's Council on Lesbian & Gay Issues



R. Richard Wagner, Co-Chair
Governor's Council on Lesbian & Gay Issues

/11

Enclosure

David Clarenbach

ISSUES & COMMENT

WISCONSIN LAW: HTLV-III ANTIBODY TESTS

CONFIDENTIALITY

Consent. No test can be run on anyone's blood without the knowledge and consent of the subject. In order for the antibody test to be administered, a consent form must first be signed by the subject, who must be informed in advance of the exceptions to the rule of confidentiality.

Disclosure of Positive Test Results. In addition to the subject tested, and the health care provider that ordered the antibody test, the following exceptions to the rule of confidentiality will permit others possible access to positive test results when the identity of the subject is known:

°To the State Epidemiologist, or his or her designee, for the purpose of providing epidemiologic surveillance or investigation or control of communicable disease.

°To an employe of the test subject's health care provider who provides patient care or handles specimens of body fluids or tissues.

°To a blood bank or plasma center.

°To assure medical acceptability of human body parts donated for transplanting.

°To a funeral director who prepares the body of a decedent for burial or disposition.

°To health care facility staff committees or accreditation review organizations for the purposes of conducting program monitoring and evaluation.

°To a court under a lawful order.

°To a person who conducts research, for the purpose of research, if the final product will not reveal information that may identify the test subject.

Alternative Test Sites. The rule of confidentiality for the Alternative Test Sites is strictly maintained with no exceptions. Access to positive test results (described above) is only possible when the identity of the subject is known. Therefore, the Alternative Test Sites that do not require personal identifying information for the tests, should be used to guarantee absolute confidentiality.

(over)

INSURANCE

The antibody test may not be used at this time by the insurance industry to determine insurance rates, nor may the test be required as a condition of insurability. However, the test may be so used if it is determined by the State Epidemiologist to be both scientifically reliable and medically significant. A study is underway to consider that question, though no determination is expected for many months. Should that approval be granted and health insurance denied based on a positive antibody test, the State will automatically extend coverage to applicants at the standard fee. Thus, no one will find themselves without catastrophic health insurance coverage. Insurance industry testing practices are explicitly prohibited from discriminating on the basis of sexual orientation.

EMPLOYMENT

The antibody test may not be required or used as a condition of employment in any job categories. At some point, the federal government may develop guidelines for certain jobs if it is proven that a public health risk is likely. If this determination takes place, those regulations will supersede State law and will be incorporated by the State Epidemiologist.

ENFORCEMENT

Any person violating the confidentiality provisions are liable to be sued by the subject for actual damages and costs, plus exemplary damages of up to \$5,000 for an intentional violation. Criminal charges can be brought for intentional disclosure that causes psychological or bodily harm, resulting in fines of up to \$10,000 and imprisonment of up to nine months or both. The employment discrimination protections are enforced by the Department of Industry, Labor & Human Relations, and insurance violations are enforced by the Office of the Commissioner of Insurance.

Rev. 11/85

Evaluating the First State Law Three Years Later

tunity to exercise influence.

Tryon recalls a case in which a gay male university professor was hired by a state school. The professor and his lover began looking for a house. A real-estate agent who realized they were gay called the university, after which the dean requested the gay man's resignation.

According to Tryon, the professor did not want to file a complaint, fearing it would jeopardize any future employment. But Tryon wrote a letter to the dean, saying that while the agency could not take any formal action, she did want to inform the school of the state's gay rights legislation.

"They retained him, they rescinded the request for the resignation," she says.

While the number of complaints has increased since the first year, Tryon warns that employers are "sophisticated in their ways," and that proving antigay discrimination is harder than demonstrating bias against other groups of people.

"It's not like gender or race, where you can see this person is black or Asian or a woman. Someone will say, 'I had no idea they were gay.' You have to have evidence that really stands out."

Issues. She says that after ERD found "probable cause" in a case involving discrimination by a bar owner who refused to let two gay men dance together, the case was referred back to the district attorney—who has filed no charges.



The majority of complaints filed thus far are in public accommodations and employment. About 30%, Tryon estimates, have had a "definite positive outcome," with the case settled either before the agency completed its investigation or after it found "probable cause" for hearings on the complaints.

The other cases include those that were withdrawn by the complainant, were found by the agency to have "no probable cause" of discrimination or did

Gay Issues and appointed an openly gay man, Ron McCrea, as his press secretary. Sandra Lipke, who heads the Wisconsin Lesbian and Gay Network, which is seeking to organize gay people throughout the state, sums up the view of many activists when she says: "We've been very fortunate to have a governor who has shown as much courage and guts as he has. His appointment of the council, of his own press person, those are moves he politically didn't have to make."

Earl's commitment was demonstrated again this year. He signed into law—despite requests from his own agencies for a veto—legislation guaranteeing confidentiality for people taking the AIDS antibody test. He secured nearly \$200,000 in AIDS funding and overcame a 9-1 legislative committee vote against his request for money to enable the council to hire a staff person.

The council, says Cochair Kathleen Nichols, has worked with state agencies to make sure that they enforce the law. The 14-member council, according to Nichols, initially spent time familiarizing itself with state government. "Then we used leverage to make certain changes," she says.

When gay prisoners complained that they were being harassed by guards Nichols says, the council stepped in: The prison system has since agreed to include gay rights material in its training curriculum for guards. The council recently asked Earl to direct the state Law Enforcement Standards Board to include gay rights material in the training curriculum for local police agencies—and Earl, she says, agreed to make that request.

Nichols, an openly lesbian elected member of the Dane County Board of Supervisors (which includes Madison and surrounding areas), says many police agencies are staffed by "decent-hearted people" who need to be told how to adapt their programs to meet the needs of lesbians and gay men.

On the other hand, the state superintendent of public instruction has not yet agreed to requests from the council to discuss educational policies, notes Cindy Lampman, a Racine resident who is also on the Governor's Council. And the number of openly gay police officers in localities remains tiny—reflecting the discrimination that undoubtedly still exists.

"The challenge," says Marc Hauptert, president of the Cream City Business Association, a Milwaukee gay organization, "is to get the legislation infused in the whole bureaucratic structure."

There have also been unexpected ef-

fects from the law. Sue Burke, editor of *Out!*, a Wisconsin gay monthly newspaper, and a former member of the Governor's Council, believes it was largely because of the gay rights legislation that she and others were able to meet with the top editors of the *Milwaukee Journal* and do some "consciousness raising" with them. The law, of course, did not mandate any such meeting, but Burke is convinced the credibility it gave to gays helped in obtaining the meeting.

Some activists say the law has



Cindy Lampman

spurred gay groups in Madison to propose alternative family legislation, which would bar discrimination against unmarried couples—gay and straight—by local government and businesses; many issues, such as child custody, are not covered by the gay rights law. Activists are working for such legislation.

"I don't think anyone's taking it easy yet," says Lampman. "There's still a lot of work to be done."

Among that work is political organizing. Press Secretary McCrea says that if the gay rights law was proposed today, it would be extremely difficult to pass, given the conservative trends in the nation and in the state. "It doesn't seem to me," says McCrea, "that the gay political vote counts for anything in Wisconsin. There's no really strong [statewide] gay organization."

Unless a homophobic governor is elected, however, there seems little likelihood that the law will be overturned. And that, says McCrea, means "the whole nature of discussions about gay rights has changed. The law confers a kind of legitimacy on a sexual minority that it never had before. The burden is not on the individual to justify his or her sexuality. The burden is on the discriminators."



Gov. Anthony Earl (left), CCBA Sect'y Sue Mortensen and CCBA Pres. Marc Hauptert (right)

Moreover, the public accommodations section in Wisconsin's equal rights law is weak, because prosecution is left up to the local district attorney—something gay activists and others are trying to change. An example of the "weak link" in this system is given by Kathleen Nichols, cochair of the Governor's Council on Gay and Lesbian

not come within the agency's jurisdiction. A handful of cases are still going through the hearing process, with no final decision yet rendered.

Just as important as the formal process of implementing the law has been the support shown by Gov. Earl. Shortly after he took office in 1983, Earl created the Governor's Council on Lesbian and



Wisconsin: Gay Rights

by PETER FREIBERG

In March 1982 a milestone in the gay rights movement occurred in Wisconsin as then-Gov. Lee Sherman Dreyfus, a Republican, signed into law the first statewide gay rights legislation in the United States. Since that time, gay rights groups, and their supporters in more than a dozen states, have sought passage of similar bills—but despite some near successes, Wisconsin still stands alone as a "free state," in the words of state Rep. David Clarenbach (D-Madison), the law's chief sponsor.

How has Wisconsin's law worked in the almost 3½ years since it was signed? Has it affected the daily lives of lesbians and gay men in the state, making it easier—and safer—to come out? Was the law worth the priority Wisconsin activists gave it, just as groups in other states continue to do?

In interviews with *The Advocate*, Clarenbach, Wisconsin activists and supporters of gay rights within the state administration generally agreed that the bill's impact has been positive and even profound. On a symbolic level, they said, the legislation bolstered the morale of lesbians and gay men; on a practical level, it gave them recourse by making antigay discrimination illegal in private and public employment, housing and public accommodations.

"I feel lucky to live in Wisconsin," says Sandra Lipke, who heads the Wisconsin Lesbian and Gay Network. "The law has granted us credibility as a minority."

Moreover, current Gov. Anthony Earl, a Democrat, whose responsibility it has been to implement the gay rights law, has shown extraordinary sensitivity to gay concerns, according to activists. Earl set up an advisory Council on Les-

Peter Freiberg is *The Advocate's* Eastern regional news editor.

bian and Gay Issues to help in implementation of the legislation and to make recommendations on other gay-related issues. Recently Earl won funding for a half-time staff member for the council despite legislative opposition. Without the law, it is extremely doubtful such a council would have been created.

On the other side of the ledger, the number of people filing discrimination complaints with the state's Equal Rights Division (ERD) has been relatively small—only about 100 to date. And activists in the rural areas of Wisconsin say that most straight people—even many gays—are unaware of the law's existence. It seems clear that most gays in Wisconsin, like gays in the 49 other



a variety of issues "in every nook and cranny" of Wisconsin. "The battle will be waged in the village squares," he says.

Some activists outside Wisconsin, who remember the state as the home of Sen. Joseph McCarthy, whose now-infamous House UnAmerican Activities Committee included "fag hunts" along with its publicized "red hunts," feel the state was an odd locale for passage of the nation's first state gay rights legislation. But Wisconsin, which nurtured the progressive movement earlier in the century, passed much legislation that was subsequently emulated in other cities and states—and the populist tradition has never entirely died out there.

The state gay rights bill was approved about eight years after it was first introduced, according to Clarenbach. A key element in its passage was support obtained from mainstream religious groups and leaders, especially the Roman Catholic Archdiocese of Milwaukee. This backing helped offset last-minute organizing by right-wing Moral Majority-type groups who sought to convince Gov. Dreyfus to veto the measure.

Ironically, it was not until the year after approval of the gay rights bill that the Wisconsin legislature repealed the state's sodomy law, decriminalizing gay sex.

Since passage of the gay rights law, says Clarenbach, there have been some attempts to repeal it, but none recently—and he does not believe any future effort

mistreatment."

Following passage, gay groups cooperated with the ERD in publishing a brochure about the law, "The Rights of Gay People." A respected former Republican governor of Wisconsin, Warren Knowles, made a television public service announcement in which he enumerated the protections of the state's equal rights legislation, including sexual orientation. Media coverage of the law has continued to surface on occasion.

This publicity has probably helped to make many lesbians and gay men in the cities aware of the law's existence, but, ERD's Tryon says, "I'm not sure the word is really out as much as we'd like it to be." In the rural areas of the state, ignorance of the law is widespread among both gays and straights, according to some activists.

"The people here don't know it passed," says Bob Jansen, who owns the Main Club, a gay bar in Superior, a northern Wisconsin city of about 20,000. One reason for the lack of awareness, according to Jansen, is the absence of contact between gay activists in areas like Milwaukee and Madison and those up north. "I don't think people in the lower part of the state realize there's a gay community up here," Jansen says.

Duane Graves, 20, who organized a gay student group in Superior, was forced to leave his job in a restaurant after he was interviewed on television protesting an antigay sign placed on a marquee by a fundamentalist minister.

"I thought of filing a complaint under the legislation," says Graves, "but I didn't know where to turn. I didn't know any lawyers to turn to. Then I decided for the amount of money I would get, it would have cost three times as much [to file the complaint]."

In fact, it doesn't require a lawyer to file a complaint with the ERD. Tryon, who heads the agency, says a bigger barrier to gays' filing complaints is the fear of retaliation if their gayness becomes known.

"I think that's the big reason," says Tryon, in explaining why so few people have filed charges since the law was enacted. "I think they [gays] don't want to... call attention to themselves. Better to remain quiet or leave or suffer indignities. I've had potential complainants call me and say, 'This is what happened,' and I say, 'Are you willing to file charges?' There's very little you can do unless a person comes forward."

Tryon is convinced there's a great deal more antigay discrimination in Wisconsin than is reflected by the number of complaints filed to date. But even when complaints are not filed, the existence of the law sometimes gives ERD an oppor-

"The message is clear that Wisconsin is a 'free state', and lesbians and gay men are to be accepted in our state on an equal legal footing."

-Rep. David Clarenbach

states, still fear coming out, making it impossible for them to take advantage of the law when discrimination does occur.

Nevertheless, the very existence of the law makes it likely that more and more gays will use it as time goes on. Merry Fran Tryon, ERD's administrator, says that this has been the experience with other minority groups that win rights legislation. And the long-term benefit, Clarenbach maintains, will be to provide a basis for gays to assert their rights on

will succeed. He also believes that the law "has had a profound impact on the lives of lesbians and gay men, both from a legal and symbolic standpoint.

"The message is clear that Wisconsin is a 'free state', and lesbians and gay men are to be accepted in our state on an equal legal footing," claims Clarenbach. "The message is equally directed at the straight community, that we are a diverse society... and we have to protect subgroups in our society from

'Issue of importance...'

Continued from page 1

If he was like the many who hide their sexual preference, even from close friends and acquaintances, Flintrop said the foster care flap "could be a very traumatic experience. But the process of coming to grips with one's sexuality, of 'coming out,' is just that. It's a process.

"It is not just something you wake up one day and you do," he continued. "It's part of a maturing, of growing. Part of gaining a confidence of who you are and what you want to be."

For six years, he has attended gay functions, contributed to gay causes and participated in gay events in Madison and elsewhere, said Flintrop. Many know of his lifestyle in Madison. He has feared no retribution or embarrassment.

But he is not one of those who would one day hold a press conference and announce amidst the flashing cameras that he is gay, he said.

The issue here is more than just his homosexuality, said Flintrop.

"The issue as it affects us personally, as well as the broader issue of public policy, is one that we're willing to pursue despite the personal emotional expense," he said.

Flintrop calls it "a real tragedy that there are so many people, middle class and upper-middle class and blue collar and white collar, in the Fox Valley who don't feel an ability to admit to themselves, much less

to their friends and co-workers and acquaintances" that they are gay.

"I hope that by making a public statement tied to this issue, that it might provide some reassurance or encouragement to other gay men and women in our community," said Flintrop.

He is not sure what the county agency is after in its denial of the foster care license.

"I don't know what responsibility they feel they have," said Flintrop. "To 'protect' people from a very real part of our society?"

The governor's office has been supportive, said Flintrop. No one there has suggested dropping the case.

"Every governor for the past 12 years has had major, important members of their staff and cabinet who were gay and involved in gay activities in the Madison area," said Flintrop. "It just hasn't been an issue."

He is not happy the county has forced the issue this far, said Flintrop.

But he is not afraid, either, he said. "I'm displeased with the county, but I don't feel personally threatened in a serious way," said Flintrop. "Is there a word somewhere between 'traumatized' and 'bothered'? It is not a huge human sacrifice. I sort of see it as an inconvenience."

Flintrop said there is large, unmet need for foster homes for teenagers trying to recover from drug and alcohol dependency.

"When I was young, my family almost always had a foster child," he said. "For 16 years, until my mother's health wouldn't allow it."

The kind of "love, support, discipline and direction" available at the Oshkosh couple's home would fill a dire need in the area, he said.

"I have seen personally the real positive benefits a caring home can have on a child at a time of great need," said Flintrop. "I am sorry that the department doesn't see our family as a real substantial resource for some kids."

Wisconsin State Journal 11/29/83

Homosexual's claim of bias in firing gets state backing

LAKE GENEVA (AP) — A man who claims he was fired from the Lake Geneva Country Club because he is a homosexual may be the first person in Wisconsin to win a gay rights discrimination case under a year-old state law, a state official said Monday.

The Lake Geneva man, whose name has been withheld, was fired from his job the day after he appeared on a July 12 television news report in which he identified himself as gay, said LeAnna Ware, of the Equal Rights Division of the state Department of Industry, Labor and Human Relations.

The man filed a complaint July 22 with the division, charging he was fired strictly because he is a homosexual, Ms. Ware said. The country club has said the man was discharged for unsatisfactory work performance, she said.

Ms. Ware, who investigated the case for the division, ruled Oct. 12 that there was probable cause for discrimination.

"The employer was unable to document anything to prove unsatisfactory work performance," she said. "Payroll records show he was working an increasing number of hours."

Ms. Ware said a division representative was in the process of getting the parties together to negotiate

a settlement. She said it was the first gay rights case to reach the conciliation stage since the sexual orientation portion of the Wisconsin Fair Employment Law was passed in May 1982.

If conciliation is not reached, she said a public hearing would be held and a division hearing examiner would make a final ruling.

Anti-hate crime bill gets police backing

By David Stoeffler

State government reporter

Stiffer penalties for crimes motivated by racism or other forms of discrimination could help police and result in punishment more fitting to the crime, an Assembly committee was told Thursday.

Capt. George Silverwood of the Madison Police Department said that Assembly Bill 599 would take a stand against discrimination.

"This kind of terrorism . . . is something that should be dealt with more severely," Silverwood told the Assembly Criminal Justice and Public Safety Committee.

Silverwood recounted an incident several years ago in Madison where residents of a West Side neighborhood were terrorized by a series of anti-Semitic incidents. A charge of criminal damage to property "did not reflect the suffering of the residents," Silverwood said.

"It's important to make the penalty fit the crime," he said.

AB-599 was proposed by Rep. David Clarenbach, D-Madison, following a series of racial and anti-Semitic incidents in Madison and Milwaukee last year. A similar bill, Senate Bill 422, is awaiting action in the Senate.

As evidence of the need for action,

Clarenbach cited a cross-burning on the city's East Side, racial unrest on the UW-Madison campus and other incidents of "racial hatred, religious intolerance and gay bashing."

Said Clarenbach: "We need to send a message to society as well as the victims that that will not be tolerated in Wisconsin."

The bill calls for increased penalties — an additional \$10,000 in fines and an extra one year in jail for a misdemeanor or five years in jail for a felony — for certain crimes.

Higher penalties would be allowed for crimes against a victim because of the victim's age, race, religion, creed, color, physical condition, developmental disability, marital status, sex, national origin, ancestry, political affiliation, sexual orientation or arrest or conviction record.

While Clarenbach said it might be difficult to prove the discriminatory intent, Silverwood said he didn't think so. "Suspects in incidents like this are not very subtle," he said.

Eugene Parks, Madison's city affirmative action officer, said recent incidents in the city are embarrassing. "We confront a social condition in this country that rivals any conditions in South Africa," he said.

No one testified against the bill. The committee took no action Thursday on the measure.

* THE CAPITAL TIMES, Madison, Wis., Friday, Oct. 23, 1987 — 23

Bill urges stiffer penalties for bigotry-motivated crime

The Associated Press

A bill that would increase penalties for crimes motivated by bigotry was introduced today by Rep. David Clarenbach, D-Madison.

Clarenbach, who sponsored a Wisconsin law that prohibits discrimination in housing, employment and public accommodations on the basis of racial preference, said he has more than 20 legislative co-sponsors on the bill.

"Despite the gains in civil rights during the past few decades, violence and harassment toward members of minority groups still rears its ugly head," Clarenbach told a news conference.

"We see swastikas painted on syna-

gogues, and other signs of race hatred, religious intolerance and gay bashing," he added.

The bill would cover crimes motivated in part by the victim's age, race, religion, creed, color, physical condition, developmental disability, sex, national origin, sexual orientation, political affiliation, ancestry, marital status, or arrest or conviction record.

Fines for misdemeanors and for felonies would increase by up to \$10,000 under the measure. Maximum jail sentences for misdemeanors under the bill would increase to one year. Prison sentences for felonies would increase to a maximum of five years.

Penalty enhancers pushed

Badger Herald
October 28, 1987

Clarenbach highlights bigotry crimes in bill

By Micheal Eder

Herald Staff Writer

State Rep. David E. Clarenbach (D-Madison) has presented a bill to the State Assembly that would enact new "penalty enhancement" laws for crimes motivated by bigotry.

Assembly Bill 599, which has over 20 legislative co-sponsors, would highlight crimes committed specifically with intent to intimidate members of a minority group. The bill would call for an increase in fines and jail sentences for those crimes.

For misdemeanors, the fines may be increased by \$10,000 and jail sentences would be extended so that the revised maximum is one year in jail. Fines for felonies could also increase by \$10,000 and imprisonment would be lengthened by not more than five years.

Currently, there are a number of penalty enhancers which provide for increased sentences

when crimes are committed under certain circumstances. Clarenbach said that enhancers are used "to amplify or add to existing penalties where a situation requires additional punishment." For example, present law is harshened when an offender uses a dangerous weapon, a

"There's been an alarming increase in crimes that seem to be motivated by bigotry — even in progressive Madison."

— State Rep. David E. Clarenbach
(D-Madison)

bulletproof vest or conceals his or her identity. However, there are no provisions that seek to mandate additional punishment for those who commit discriminatory-based crimes.

Clarenbach has been conferring with political

and civil rights groups to discuss possible problems or illegalities the bill may present. Earl Bricker, the Madison Coordinator for the American Civil Liberties Union (ACLU), met with Clarenbach earlier this month. The ACLU sought to express certain problems they saw and help amend the bill. "A crime is a crime," said Bricker. "It's not better or worse if it's committed against a certain person." Bricker feels that the ACLU will probably attempt to change part of the bill, but will not speak out in opposition. "This is certainly a laudable bill," he said. "I'm sure we'll talk again."

The framers of the bill were moved to action by recent prejudiced-related offenses. "Violence motivated by bigotry is not a thing of the past and unfortunately is not a crime," said Clarenbach. "These are not [just] crimes against an individual, but an offense against an entire community." Clarenbach feels "There's been an alarming increase in crimes that seem to be motivated by bigotry — even in progressive Madison."

David Clarenbach

ISSUES & COMMENT

STATE BUDGET IMPACTS GAY COMMUNITY

Gay Liaison Created. Money was finally included in this year's state budget for a position in the Governor's office to serve as a liaison with the state's gay citizens.

Shortly after taking office in 1983, Governor Earl created his Council on Lesbian & Gay Issues, a group of volunteers to advise him on issues affecting the gay community. At that time, he promised to seek money for a paid position to assist lesbians and gay men on a full-time basis.

Governor Earl included an appropriation for this position in his budget request, but it was deleted by the Joint Committee on Finance. After considerable persuasion by the Governor and a few legislators, we were able to restore funding for this gay liaison post.

Funding for Local AIDS Programs. Almost \$200,000 was included in the budget to assist local communities, especially in Milwaukee, Madison and Green Bay, who are establishing support and counseling programs for AIDS victims. After these local groups raise two-thirds of their targeted funds, the state would then contribute the final one-third using this fund. It is hoped that this initial state contribution can be expanded in the future.

Confidentiality Guarantees for HTLV-III Testing. Stringent confidentiality protections were enacted for persons taking the AIDS anti-body test. HTLV-III screening began in our state; it became evident that this test posed potential and serious problems. Anxiety was heightened in the gay community with new fears over who would be required to undergo this testing, who would have access to test results, what those results meant and how they would be used.

As the most expedient way to address this crisis, I drafted language to the budget bill that guaranteed confidentiality to all persons who choose to take the HTLV-III screening. For those who test positive, a face-to-face interview will be required to explain the reliability of the test, the effects and known treatments of AIDS, and to be referred to counseling, if requested.

Furthermore, these provisions prohibit any employer from requiring AIDS anti-body testing as a condition of employment. The test cannot be required as a condition of insurability, nor can test results be considered in the determination of insurance rates until the AIDS test can be proven reliable.

(over)

There was considerable last minute opposition to these provisions by some members of the medical community who felt that these confidentiality requirements were too rigorous and could make their AIDS research capabilities more difficult. The insurance lobby also tried to remove the language affecting them. However, the legislature accepted that there was a much larger and more immediate threat to the state's gay population if confidentiality with regards to testing could not be assured.

Obviously, the AIDS problem will continue to occupy much of the time of both the Governor's Council on Lesbian & Gay Issues and the new liaison, and no doubt, will require further legislative actions.

David Clarenbach

ISSUES & COMMENT

1988 GAY/LESBIAN ISSUES

GAY BASHING: The Assembly has unanimously approved increased penalties for gay bashing and other crimes motivated by bigotry. This sends the message that, in Wisconsin, we consider "hate crimes" to be especially offensive.

The state has an interest and a duty to protect minorities from harassment. Despite the gains in civil rights during the past few decades, violence still rears its ugly head in the form of race hatred, religious intolerance and gay bashing.

AB 599, with over twenty legislative co-authors, establishes penalty enhancements for violence that is motivated by prejudice against any group or individual due to their minority group status. Fines would be increased up to \$10,000 and prison sentences may be increased up to five years.

RIGHT TO PRIVACY: The legislature is considering a one-word amendment to the constitution to give citizens a right to privacy. The word "privacy" cannot be found in Wisconsin's Constitution.

As society and technology advances, the opportunity for and interest in a variety of personal intrusions increase. There exists today, therefore, an overriding public interest in defending the right to be left alone.

While lawmakers have established the principle of a right to privacy through various statutory and tort protections, those references fail to provide the necessary framework for the courts, the legislature or the public.

AJR 95 would add privacy to the list of inherent rights -- life, liberty and the pursuit of happiness -- guaranteed in the opening words of the Wisconsin Constitution. Similar protections in other states have proven useful in defending sexual privacy and abortion rights.

ROTC: The UW-Madison has resolved, in part, their struggle with the issue of ROTC programs and their conflict with state law and University non-discrimination policies. The Faculty Senate is pursuing a change in military regulations that allow exclusions based on sexual orientation, and a recent federal Appeals Court ruling should help accomplish that goal. However, the Faculty Senate stopped short of the ultimate enforcement mechanism -- removing ROTC programs from campus -- and instead will collect statistics and monitor the program's non-compliance with state law.

AIDS INSURANCE COVERAGE: State law prevents insurance companies from requiring the AIDS antibody test as a condition of providing health insurance or in determining insurance rates. The Governor's plan to remove this prohibition would violate confidentiality guarantees and leave an entire class of people without health care coverage.

While the HIV test is increasingly becoming a reliable diagnostic tool, we must assure that anti-discrimination and privacy protections exist. Even more important, funding for the care and treatment of AIDS victims and full health insurance coverage must be guaranteed as a necessary prerequisite to the use of the antibody test for insurance purposes.

OPEN HOUSING LOOPHOLE: Though still in committee, AB 486 would allow housing providers to discriminate in the rental of four or fewer units in an owner-occupied single family residence. It is in direct conflict with the state policy objective of providing maximum housing choice to qualified individuals.

In effect, this bill says it is okay to discriminate against people on the basis of their protected class status in certain circumstances. Passage would open the door for other exceptions, since the bill actually allows discrimination.

ALTERNATIVE FAMILIES: Community organizers in the City of Madison have proposed a local ordinance to extend protected class status to couples in an alternative family. The ordinance would extend public employee benefits to alternative family members and redefine residential zoning districts. Religious, women's, labor, elderly and low-income groups have joined with lesbian and gay supporters to back the ordinance package. State legislation is also being considered to help define the legal and economic commitment entered into by non-"married" couples.

RAWHIDE IS TABLED: The "Rawhide Bill" has been permanently set aside by the legislature in favor of a "creative alternative" that protects the integrity of the state's civil rights law.

Rawhide's proposals (SB 301 and AB 527) would have created exceptions to Wisconsin's Fair Employment Act by allowing discrimination against three protected classes: sexual orientation, marital status and religion.

Instead, the legislature approved a clarification of existing law which allows legitimate religious associations to grant preferential hiring treatment to members of their own creed.

The change allows the hiring preference where a bona fide occupational qualification exists, and if the job description demonstrates that the position is clearly related to the religious teachings of the association.

AB 916 was drafted with advice from leaders in the lesbian and gay community and is based on provisions outlined in a recent U.S. Supreme Court decision.



David E. Clarenbach

S P E A K E R P R O T E M O F T H E A S S E M B L Y

THE SESSION IN REVIEW

Financial crises dominated the entire 1985-86 legislature's agenda from beginning to end. The session started with action on Governor Earl's budget that included income tax cuts and property tax relief. Consequently, little revenue was retained for either new programs or desirable increases in our human services. Worst of all was the prediction early this year of a projected budget deficit, forcing radical reductions in all state programs.

Throughout the session there was overriding attention to the business climate in Wisconsin. In an effort to direct legislative consideration toward an alternative economic program, a coalition of community groups and progressive legislators introduced the Economic Democracy Act.

As across the nation, the farm crisis loomed as a growing threat to both the state's economy and a way of life on the family farm. The Special Committee on Rural Priorities which I chair conducted hearings in farm communities -- a poignant and enlightening experience. During the waning hours of the session we approved the Governor's Farm Bill which creates: 1) a loan fund to enable many farmers to plant crops this season; and 2) a voluntary mediation process to help farmers seek alternatives to foreclosure.

The legislative initiatives I helped to advance this session are listed on the reverse side, with a notation of their final status. Listed below are some other proposals that attracted major attention:

- Legalized gambling: a state-run lottery and pari-mutuel betting. **Adopted** (subject to legislative approval again next year and then voter referendum)
- Raising the drinking age from 19 to 21. **Enacted**
- Making the use of auto seatbelts mandatory. **Failed**
- Permanent extension of municipal mediation/binding arbitration law. **Enacted**
- Limits imposed on medical malpractice claims. **Enacted**
- Public utilities allowed to establish holding companies. **Enacted**
- Interstate banking permitted. **Enacted**
- Comprehensive pregnancy options program. **Enacted**
- Ban on investment of state pension funds in companies doing business in South Africa. **Failed**

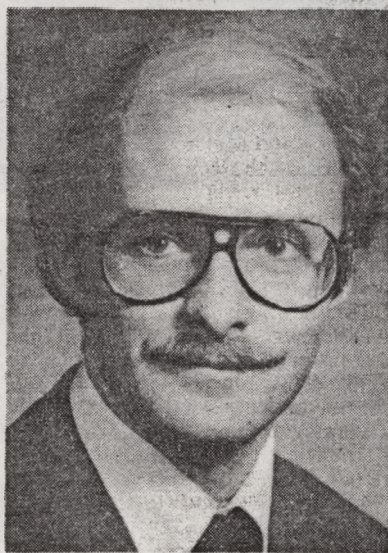


LEGISLATIVE SCORECARD

Here is a list of some of the bills I authored or helped further:

Subject	Final Status
Human Rights	
Prohibits investment of public funds in South Africa (AB 54)	Passed by Assembly
Provides public funding for abortions (AB 36)	In Children and Human Services Committee
Implements pay equity plan for state workers (AB 85)	Enacted
Confidentiality of positive HTLV III antibody test results (AB 471)	Enacted
Implements marital property reform (SB 150)	Enacted
Allows the sale of nonprescription contraceptives (AB 645)	Enacted
Opposes military intervention in Nicaragua (AJR 29)	In State Affairs Committee
Prohibits wiretapping (AB 565)	In Criminal Justice Committee
Studies the care and treatment of mentally ill persons (AJR 38)	In Judiciary Committee
Aid to shelters for the homeless (AB 847)	Enacted
Limits searching of mobile homes (SB 431)	Passed by Senate
Provides shelter for the homeless (AB 85)	Enacted
Economic and Electoral Reform	
Economic Democracy Act (AB 800)	In Tax Exemptions Committee
Creates an open presidential primary (AB 80)	In Elections Committee
Provides for minority representation in election districts (AB 84)	Enacted
Provides exceptions for untimely property tax payment penalties (AB 111)	Enacted
Creates tax exemption for nonprofit community theaters (AB 216)	Defeated by Assembly
Closes tax loopholes on subsidiaries of multi-state corporations (AB 971)	In Ways and Means Committee
Eases restrictions on campaign funding grants to third parties (AB 318)	Defeated by Assembly
Creates property tax exemption for senior citizen centers (AB 554)	In Tax Exemptions Committee
Environment	
Establishes community right-to-know on hazardous chemicals (AB 885)	In Environmental Resources Committee
Bans the sale and use of Aldicarb in Wisconsin (AB 436)	Enacted
Limits emission levels of compounds causing acid rain (AB 547)	Enacted
Expands soil conservation program (AB 85)	Enacted
Orders inspection of trucks carrying hazardous materials (SB 148)	Enacted
Asks for state authorization to prohibit radioactive waste dump sites (SJR 61)	Adopted
Monitors solid or hazardous waste facilities and sites (AB 601)	Enacted
Creates toxic prevention program (AB 85)	Enacted
Creates a Wisconsin lakes and watershed authority (AB 397)	Approved by Environmental Resources Committee
Education and Social Responsibility	
Prohibits investment of public funds in military industries (AB 279)	In State Affairs Committee
Provides catch up pay increases to UW faculty members (AB 85)	Enacted
Creates a student position on the UW Board of Regents (AB 53)	Enacted
Allows distribution of literature in shopping malls (AB 136)	Approved by Judiciary Committee
Allows alcohol testing without placing citizen under arrest (SB 226)	Enacted
Guarantees rights to students in schools and universities (AB 557)	In Education Committee
Requires minority cultural or history training for teachers (AB 550)	In Education Committee
Requires retractions in cases of slanderous news broadcasts (AB 396)	Defeated by Assembly
Creates student seats on the Higher Educational Aids Board (SB 312)	Enacted
Increases educational grants by 7.3 million dollars (AB 85)	Enacted
Regulates video club membership agreements (AB 875)	Enacted
Farm and Worker Protections	
Secures collective bargaining rights for UW teaching assistants (AB 55)	Enacted
Lowers valuation of agricultural land for property taxes (AB 24)	In Ways and Means Committee
Creates a farm credit program (AB 965)	In Agriculture Committee
Provides for worker buyout and ownership of businesses (AB 947)	In Economic Development Committee
Prohibits the use of nondairy products in public or government buildings (AB 201)	In Agriculture Committee
Removes residency requirements for municipal employees (AB 174)	Approved Labor Committee
Secures collective bargaining rights for UW academic staff (AB 229)	Passed by Assembly
Requires businesses to notify employees before layoffs (AB 299)	In Labor Committee
Requires job impact statements before approval of IRB's (SB 52)	Enacted
Allows teachers to retire early with full benefits (AB 325)	In Retirement Systems Committee
Eliminates statute of limitations for worker's compensation (AB 559)	In Labor Committee
Calls for adopting a national farm bill with specified provisions (AJR 6)	Adopted
Provides safeguards for video display terminal operators (AB 726)	In Labor Committee
Prohibits polygraph testing in employment (AB 840)	In Labor Committee

"There's a certain point where the broader issues merit what is obviously a very substantial personal sacrifice...and a great loss of personal privacy."
— Richard Flintrop



Homosexuality of Flintrop cited in license denial

BY FRANK CHURCH
Post-Crescent staff writer

OSHKOSH — A judge has been asked to decide whether former state Rep. Richard Flintrop's homosexuality should be used as the basis for denial of a foster home license by the Winnebago County Department of Health and Social Services.

Flintrop now serves as the director of the state Council on Criminal Justice. He is part-owner of an Oshkosh residence and lives there when he is not residing in Madison.

The other owners are a married couple who reside at the home and decided to press their efforts to get a foster home license despite the risk of publicity.

The county agency feels it should not be forced to grant a foster home license to the couple because of Flintrop's occasional presence in the home, contending it would be detrimental to the child's well-being.

In a petition filed Nov. 22, the county is asking Circuit Court Branch 3 Judge Tom Williams to reverse a state Department of Health and Social Services order to issue the license.

'It's an issue of broader importance'

MADISON — Richard Flintrop reached about as high as a lawmaker can in his 10 years in the state Assembly.

He became chairman of the Assembly Education Committee. He drew respect from both sides of the political aisle. In every article rating state lawmakers, he was near the top.

A story in a Milwaukee newspaper's Sunday magazine last year called him the "best committee chairman in the Legislature."

He authored the new Children's Code in 1977.

Now, his homosexuality is being cited by the Winnebago County Department of Social Services as a reason to deny an Oshkosh couple a foster home license.

The agency cites sections of that same Children's Code in making its case.

Flintrop was surprised by the county's denial.

"I'm disappointed, particularly because so many of the individuals involved...know me. They know my character. The decision was not based on a judgment of my character."

Six years ago, Flintrop said, he would have never talked to a reporter about his gay lifestyle. Now, he said, he can.

Continued on page 2

The couple — Byron Malsin and Kathleen Roblee — applied for the license more than a year ago. Flintrop's name was added to the application at the insistence of the county agency because he was a frequent resident in the home.

On Dec. 6, Child Foster Home Coordinator Corliss App told them the license was denied.

The couple and Flintrop could have dropped the effort after the county initially turned down the license request, but instead they carried their case to a state Department of Health and Social Services hearing examiner.

A March 16 hearing was held before state Hearing Examiner Sheila O. Jakobson, an attorney. On Sept. 30, Jakobson reversed the county decision.

On Oct. 25, the state agency denied the county's petition for a re-hearing.

Flintrop, who as an Oshkosh assemblyman authored the state Children's Code cited by the county in its court case, said the three decided to be candid about his homosexuality when the application was submitted. He said they felt it important that a youngster knows exactly what home situation he or she will be getting into.

"I see the issue of being able to be judged as a potential foster parent on the merits of my individual character and my personal strengths and weaknesses as a right that I should be entitled to," said Flintrop, who will be 38 on Dec. 15.

Flintrop said staff of Gov. Anthony Earl, who appointed him to the criminal justice post, were told of the decision to appeal the county license denial last year.

"No one has ever suggested that it might be judicious to withdraw," said Flintrop when contacted Thursday.

"There's a certain point where the broader issues merit what is obviously a very substantial personal sacrifice...and a great loss of personal privacy," he added.

Flintrop feels there is irony that the state is a co-defendant in the foster license case. In the past, it has been the target of sex discrimination suits.

"In fact, they are the ones that have made a positive, enlightened decision that they know they might have to defend," said Flintrop. "To that extent, it is somewhat unique."

Continued on page 2

Flintrop central to case...

Continued from page 1

In her September ruling, Jakobson said the county agency predicated its denial of a license "on the presence of an adult homosexual male in the petitioner's household without any supporting evidence as to why or how such a presence may be detrimental to a foster child."

The county also claimed the license should be denied because both Malsin and Roblee had full-time jobs that kept them away from the home, but Jakobson said they hired a babysitter to care for their own child and had presented a "reasonable and suitable" plan for caring for a teen in their absence.

Besides, she said, the license would be for teens attending high school full time.

Both were highly qualified to be foster parents, said Jakobson, and the county agency's contention that the presence of a homosexual "does not fall within the minimum acceptable standards of our society" is an insufficient and inappropriate basis for a denial of a foster home license...."

Flintrop and Malsin said they were surprised at the county's appeal.

While the reversal by Jakobson meant that the county had to issue the trio a foster home license, the county still has to approve the referral of the teen-ager to the home.

"They can give us a license and never allow us a child anyway," said Malsin, part-time manager of two group homes for juveniles and head of a juvenile outreach program at the University of Wisconsin-Oshkosh.

"I'm not sure what they are after on this," he said.

The Post-Crescent could not get comments on the case from county officials.

The county social services board has met twice in closed session to discuss the matter and has named John A. Bodnar, assistant corporation counsel, the county's spokesman in the matter.

"I don't comment on anything I'm handling when it's in the stage of litigation," Bodnar said.

Norman L. Whitford, director of the county agency, said the social services board would probably hold another closed session on the matter Monday.

The case will probably not be scheduled for any action until sometime in late January, according to court officials.

Information on the county's side of the case had to be gleaned from court records.

In her letter to Malsin and Roblee, an instructor at UW-O with who holds a doctorate in psychology, App said, "We are not in a position to risk exposing a child to this type of behavior (homosexuality) as it does not yet fall within minimum acceptable standards of our society."

The rule that foster parents cannot both be employed full time can be waived under certain conditions by the department, but that would not be waived in this case, said App, because of the concern over Flintrop's presence.

"I'm not sure who decides what minimum acceptable standards are," said Malsin. The couple's application, he said, specified a teen above 15 years old recovering from alcohol or chemical dependency and fully apprised of Flintrop's gay lifestyle.

"I just know our household is abso-

lutely appropriate and better than most," he said. "I think what the county has done is more than insulting to us.

"What they're doing is also potentially harmful to our families and professional careers," he added. The couple has a 15-month-old daughter.

He said there is a shortage of foster homes for teens recovering from chemical and alcohol dependency. Such teens need placement in foster homes if they are to be reintegrated into society.

"You don't get that impression in this case," said Malsin. "It's hard for me to imagine another home that would be a better home. It disappoints me greatly, and probably worse than that."

In her ruling, Jakobson said the couple's record and statements by others "attest to their exceptional qualifications and to their high degree of dedication to young people."

"No negative evidence was submitted by the county agency regarding petitioner's or his wife's character," she continued. Despite plenty of opportunity to do so, the agency "did not establish that any negative or harmful effects on a teenage foster child would result from the presence in petitioner's household of a homosexual who has not been shown to be unstable or of bad character."

In asking the court to reverse the state agency, the county charged Jakobson's decision contravened the state administrative code standard saying both parents may not be regularly employed outside the home without written approval of the agency, approval dependent on evidence of suitable plans to care for the child during their absence.

It also contravened, said the county agency, the juvenile code requirement for the "care, protection and wholesome mental and physical development of children, preserving unity of the family whenever possible" and the legislative intent in the code to provide children "permanent and stable family relationships."

The county also says the state has not shown that the trio "are responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children" as required in state code.

The county also claims that the couple appeals its ruling to the state beyond the 60-day time period allowed by statute. It also contested Jakobson's decision not to grant the county an extension of time to prepare for the hearing examiner's hearing.

Malsin said the couple came within less than two hours of getting a foster teen on a temporary basis last fall, soon after they applied for the license.

They had an appointment with a 17-year-old and a social worker at 11 a.m. At 9:30 a.m., he learned the appointment had been cancelled, said Malsin.

"I guess they changed their mind about the appropriateness of the house," said Malsin.

That same youth was subsequently placed in a foster home where both parents worked.

Of the two youth group homes that Malsin manages, one handles teens recovering from alcohol and drug dependency. The other deals with emotionally disturbed teens.

'Issue of importance...'

Continued from page 1

If he was like the many who hide their sexual preference, even from close friends and acquaintances, Flintrop said the foster care flap "could be a very traumatic experience. But the process of coming to grips with one's sexuality, of 'coming out,' is just that. It's a process.

"It is not just something you wake up one day and you do," he continued. "It's part of a maturing, of growing. Part of gaining a confidence of who you are and what you want to be."

For six years, he has attended gay functions, contributed to gay causes and participated in gay events in Madison and elsewhere, said Flintrop. Many know of his lifestyle in Madison. He has feared no retribution or embarrassment.

But he is not one of those who would one day hold a press conference and announce amidst the flashing cameras that he is gay, he said.

The issue here is more than just his homosexuality, said Flintrop.

"The issue as it affects us personally, as well as the broader issue of public policy, is one that we're willing to pursue despite the personal emotional expense," he said.

Flintrop calls it "a real tragedy that there are so many people, middle class and upper-middle class and blue collar and white collar, in the Fox Valley who don't feel an ability to admit to themselves, much less

to their friends and co-workers and acquaintances" that they are gay.

"I hope that by making a public statement tied to this issue, that it might provide some reassurance or encouragement to other gay men and women in our community," said Flintrop.

He is not sure what the county agency is after in its denial of the foster care license.

"I don't know what responsibility they feel they have," said Flintrop. "To 'protect' people from a very real part of our society?"

The governor's office has been supportive, said Flintrop. No one there has suggested dropping the case.

"Every governor for the past 12 years has had major, important members of their staff and cabinet who were gay and involved in gay activities in the Madison area," said Flintrop. "It just hasn't been an issue."

He is not happy the county has forced the issue this far, said Flintrop.

But he is not afraid, either, he said.

"I'm displeased with the county, but I don't feel personally threatened in a serious way," said Flintrop. "Is there a word somewhere between 'traumatized' and 'bothered?' It is not a huge human sacrifice. I sort of see it as an inconvenience."

Flintrop said there is large, unmet need for foster homes for teen-agers trying to recover from drug and alco-