



Mass. Court: Only Marriage Will Do!

By 365gay.com

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BOSTON, MASSACHUSETTS -- The Massachusetts Supreme Judicial Court Wednesday declared that civil unions will not suffice for the full right of marriage for same-sex couples.

"The history of our nation has demonstrated that separate is seldom, if ever, equal," the four justices who ruled in favor of gay marriage wrote in their opinion released Wednesday morning.

The court ruled that a draft bill submitted by the Senate that would give gay couples civil unions with many of the rights and responsibilities of marriage does not meet the terms of its landmark ruling last November that the state could not prevent same-sex couples from marrying.

"The bill that would allow for civil unions, but falls short of marriage, makes for "unconstitutional, inferior, and discriminatory status for same-sex couples," the justices said.

'For no rational reason the marriage laws of the Commonwealth discriminate against a defined class; no amount of tinkering with language will eradicate that stain. The bill would have the effect of maintaining and fostering a stigma of exclusion that the Constitution prohibits,' the court said.

"This is once again an affirmation by the court that gays and lesbians have the fundamental right to marry," Josh Friedes of the Freedom to Marry Coalition told 365Gay.com.

The landmark case which has resulted in Massachusetts becoming the first state in the country to legalize gay marriage began in 2001 when seven gay couples went to their city and town halls to obtain marriage licenses. All were denied, leading them to sue the state Department of Public Health, which administers the state's marriage laws.

A Suffolk Superior Court judge threw out the case in 2002, ruling that nothing in state law gives gay couples the right to marry. The couples immediately appealed to the Supreme Judicial Court, which heard arguments in March, but did not rule until November 2003.

The Legislature has been at odds since the court ruling. Gov. Romney and other Republicans in the state are opposed to marriage but would be willing to grant some domestic partner rights. Last week the state Democrats voted to back same-sex marriage (story) although the vote was non-binding.

The high court's ruling comes exactly one week before members of both houses meet in a Constitutional Convention to consider an amendment that would legally define marriage as a union between one man and one woman.

Friedes called on the Legislature not to make any hasty decisions.

"We are hopeful the Legislature will take the time to digest the ruling and realize only civil marriage rights represents full equality to which every citizen is entitled," Friedes said.

Mary Bonauto, an attorney who represented the seven couples who filed the lawsuit, said she anticipated a fierce battle over amending the state constitution. "No matter what you think about the court's decision, it's always wrong to change the Constitution to write discrimination into it," she said.

If approved by a majority of lawmakers, the amendment would then have to be approved again during the 2005-06 legislative session before going on the ballot in November 2006.

The court, in its November ruling gave the Legislature until spring to rewrite the laws legalizing gay marriage. As a result, thousands of same-sex couples could be legally married before any referendum could be held.

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