

Amendment jeopardizes landmark Calif. ruling

Activists bracing for \$20 million fight after court legalizes gay marriage

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May 22, 2008

The jubilation and excitement created by last week's historic California Supreme Court ruling legalizing same-sex marriage is slowly giving way to the sobering reality that state voters could void gay unions via constitutional amendment in November.

The fight over that amendment will be costly — perhaps as much as \$20 million.

"We have to be prepared to spend pretty much the same amount of money per voter as we've spent in other ballot measures, which in this case means around \$20 million," said Evan Wolfson, executive director of Freedom to Marry.

Equality for All, a coalition of more than three dozen organizations working to defeat the proposed amendment, had raised \$577,000 of as March 31. More recent figures were not available.

Geoff Kors, executive director of Equality California, said the total was "just a drop in the bucket" compared to what is needed to win.

"Our opponents have vowed to raise \$10 to \$20 million," he said, "and we need to at least match them dollar for dollar."

California last week joined Massachusetts to become the second state to allow California same-sex marriages.

In an opinion released May 15, the California Supreme Court concluded, 4-3, that "an individual's sexual orientation — like a person's race or gender — does not constitute a legitimate basis upon which to deny or withhold legal rights."

The court's decision cannot be appealed but the proposed constitutional amendment could render it void.

Californians are expected to vote on the amendment this fall. Proponents recently announced they had obtained 1.1 million signatures to bring the issue to voters as part of the November ballot.

State officials have yet to certify, based on random sampling, that the signatures are valid. A decision is expected in June.

Therese Stewart, San Francisco's deputy city attorney, said it was unclear in the months to wed in California how the amendment might affect couples that come.

She said it was unknown whether the amendment would "retroactively take away" a gay Californian's right to marry, and the question would "require research."

Amendment supporters, however, said success would overrule the California Supreme Court's decision.

“The court’s rationale for its decision should prompt outrage from the majority of California’s citizens,” said Ron Prentice, chair of ProtectMarriage.com. “In November, the people will have an opportunity to overrule the court’s decision by passing a constitutional amendment — and California’s voters must respond by voting.”

It was unclear this week how the proposed amendment would sit with voters. But an analysis of past poll results, prepared by the American Enterprise Institute for Public Policy Research, shows a growing number of Californians think gay couples should have marriage rights.

The number of people who told pollsters that “gay marriage should be valid” rose from 27 percent in 1996 to 39 percent in 2005.

Wolfson said the polls show that marriage rights supporters will “have to work” to win in November, but a victory would mean “we will have won the war.”

“Just as Gettysburg did not end the Civil War, there was much toil and blood and fighting still to do, in retrospect, we can see that Gettysburg was the turning point,” he said. “California is Gettysburg.”

For that reason, Wolfson said, the importance of defeating the proposed amendment cannot be overstated.

“This is the single most important gay priority this year,” he said. “The stakes literally couldn’t be higher.”

Gay civil rights activists lauded the court for granting full marriage rights to California’s estimated 1.3 million gay, lesbian and bisexual residents.

“This is a historic day for the state of California and a long-awaited day for the plaintiffs in this case and their families,” said Joe Solmonese, Human Rights Campaign president. “The California Supreme Court has made clear that same-sex couples in committed relationships and their families deserve the same level of respect afforded to opposite-sex couples.”

HRC announced Wednesday it is donating \$500,000 to fight the proposed amendment.

Rea Carey, the National Gay & Lesbian Task Force’s acting executive director, echoed Solmonese.

“This is an extraordinary victory for Californians and all Americans who hold fairness and opportunity as fundamental American values,” she said. “Today, once again, California is leading the way in affirming the inherent dignity of all people. Today, in our hearts, we are all Californians.”

Gov. Arnold Schwarzenegger, a Republican, said in a statement he would uphold the court’s decision.

“I respect the court’s decision and as governor, I will uphold its ruling,” he said. “Also, as I have said in the past, I will not support an amendment to the constitution that would overturn this state Supreme Court ruling.”

‘Tremendous victory’

Despite that looming threat, gays in California and beyond savored the win.

“I don’t think there are quite words to express the joy and euphoria that not just myself but millions of people are feeling today,” Kors said May 15. “It is such a tremendous victory.”

Filed by 16 same-sex couples, two pro-gay groups, two anti-gay groups, plus San Francisco city and county, the consolidated case has drawn unprecedented interest and attention.

The case, which reached California's high court after Schwarzenegger twice vetoed bills that would have granted same-sex couples the right to marry, generated a conflicting record.

San Francisco Superior Court Judge Richard Kramer ruled in 2005 that the ban violates the state constitution's guarantee of equal protection. He also said it violates a person's fundamental right to marry.

Eighteen months later, the California Court of Appeal ruled 2-1 that the state may continue to bar same-sex couples from marrying. That ruling was appealed to the California Supreme Court, which heard final arguments March 4.

Shannon Minter of the National Center for Lesbian Rights, who argued the case before the California Supreme Court, said the final decision made clear that gay people have "the same fundamental right to marry" as straight people.

"This is a moment of pure happiness and joy for so many families here in California today," he said.

Minter said the court's decision would become final 30 days after it was issued, but it could take slightly longer before California counties would be logistically prepared to issue marriage licenses to same-sex couples.

"Very shortly," he said, "gay and lesbian couples will be able to marry."

Minter noted that California has no residency requirement associated with its marriage license, so gay couples from across the nation could wed there. That allowance could prove problematic for jurisdictions such as the District of Columbia, which does not have a law

Counties prepared to act

Ken Yeager, a member of the Santa Clara County Board of Supervisors, said in a statement officials there were working quickly to update paperwork.

"As soon as all the forms are corrected and the county is given approval by the state," he said, "I personally will be thrilled to perform the first same-gender marriages in our county."

Meanwhile, case plaintiffs who'd fought for years to win marriage rights were making plans to wed.

Stuart Gaffney said he felt "boundless joy" upon learning he'd finally be able to marry his partner, John Lewis.

"We're looking forward to being newlyweds after 21 years together," he said. "Today is the happiest and most romantic day of our lives."

Activists and celebrity gay couples were expected to join the rush. Talk show host Ellen DeGeneres announced her engagement to actress Portia de Rossi, and actor George Takei revealed plans to wed his longtime partner, Brad Altman.

Lorri Jean, CEO of the Los Angeles Gay & Lesbian Center, also made plans to marry her partner, Gina Calvelli, in September.

Schwarzenegger was quoted in The Sacramento Bee as saying he hopes gay couples come to California to find wedded bliss.

"You know," he said, "I'm wishing everyone good luck with their marriages and I hope that California's economy is booming because everyone is going to come here and get married."

Varied reactions

Elsewhere, reactions varied as organizations and politicians learned of the decision.

U.S. House Speaker Nancy Pelosi, a Democrat, called the ruling "a significant milestone" and spoke against the proposed amendment.

"I encourage California citizens to respect the court's decision," she said, "and I continue to strongly oppose any ballot measure that would write discrimination into the state constitution."

The presidential campaigns of Sens. Barack Obama, Hillary Clinton and John McCain also were quick to comment on the court's decision to allow same-sex couples to wed.

A spokesperson for McCain, the presumptive Republican nominee, said the candidate "doesn't believe judges should be making these decisions."

Obama's campaign noted he "respects the decision of the California Supreme Court and continues to believe that states should make their own decisions when it comes to the issue of marriage."

In a statement, Clinton's campaign did not comment directly on the decision.

"Hillary Clinton believes that gay and lesbian couples in committed relationships should have the same rights and responsibilities as all Americans and believes that civil unions are the best way to achieve that goal," it says.

"As president, Hillary Clinton will work to ensure that same-sex couples have access to these rights and responsibilities at the federal level. She has said and continues to believe that the issue of marriage should be left to the states."

The conservative Liberty Counsel, which represented the Campaign for California Families in the case, issued a statement lambasting the decision.

"Traditional marriage is common sense," said Mathew Staver, Liberty Counsel's founder. "Yet, this decision is nonsense. No matter how you stretch California's constitution, you cannot find anywhere in its text, its history, or tradition that now, after so many years, it magically protects what most societies condemn."

Staver pledged to ask the court to stay the ruling until voters have a chance to vote on the ballot initiative.

But other organizations, including the American Institute of Bisexuality and the Transgender Law Center, lauded the justices.

"They have affirmed the right that each of us has the freedom to marry the person we love, regardless of their race, their religion, their social class or the gender of the person they choose to spend their life with," said Denise Penn, an American Institute of Bisexuality director.

Masen Davis, Transgender Law Center's executive director, also welcomed the decision.

“California is a state that believes in equality,” Davis said. “Recognizing relationships regardless of gender is a crucial step toward full equality for LGBT Californians.”