



## THE GREAT GAY MARRIAGE DEBATE

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*Massachusetts Monday stepped into the increasingly hot spotlight of gay marriage, becoming the first state in the nation to offer court-approved, legal marriage to same-sex couples.*

Massachusetts' Supreme Judicial Court ruled in November that towns and cities must begin to marry same-sex couples on May 17. But opponents, including Republican Gov. Mitt Romney, are working to shut the window opened by the state's highest court.

Although the situation in Massachusetts is the center of media attention, most other states also are dealing with the issue. Some are trying to shore up their bans on gay marriage. Others face mounting court challenges from same-sex couples seeking the same rights as heterosexual couples. They want to be legally recognized on tax and insurance forms, in wills, adoption proceedings, in their places of worship and in their communities.

And the furious state debates have drawn the federal government into the debate. President George W. Bush is urging Congress to pass an amendment to the Constitution that would ban gay marriages.

If such an amendment does pass it would be only the 28th time the Constitution has been altered since its ratification in 1788.

### **What's at stake?**

Part of the problem with the gay marriage debate is the legal chaos that results from different states having different laws concerning same-sex marriage. As of mid-May, courts in five relatively liberal states -- California, New Jersey, New York, Oregon and Washington -- are being asked to rule on same-sex marriages already performed there by officials and clergy.

In five relatively conservative states -- Georgia, Kentucky, Mississippi, Oklahoma and Utah -- voters will decide this fall about changing their state constitutions to outlaw gay marriage.

Four other states -- Alaska, Hawaii, Nebraska and Nevada -- already have constitutional amendments that ban same-sex marriage.

"It's going to be complicated for many years. We're going to have some free-marriages states and some that are not," said Matt Foreman, executive director of the National Gay and Lesbian Task Force.

## **The federal way**

The most direct path to clearing up the chaos is a federal constitutional amendment. Without it, rival sides are likely to turn endlessly to state courts until the U.S. Supreme Court, the highest court in the country, decides the issue.

But an amendment doesn't look likely to happen. Although several national polls indicate a majority of Americans oppose same-sex marriages, any amendment to ban gay unions would need to be approved by two-thirds of both the House and Senate, where Republicans have only slim majorities. Then, three-fourths (38) of the 50 states have to ratify it. Of the 10,000 amendments that have been proposed, only 27 have made it through the process.

## **Why now?**

The most recent struggle over same-sex marriages first bubbled up in Vermont. In 2000, former governor and Democratic presidential candidate, Howard Dean, signed a law creating "civil unions" between same-sex partners, making Vermont the first state to legally recognize gay unions, although it stopped short of endorsing legal marriages.

But it was the month-long parade of couples who got married in San Francisco in February and March that captured the nation's attention and focused proponents and opponents on the gay marriage issue. The California Supreme Court ended that parade, but the debate is nowhere near over there and elsewhere.

## **What will happen?**

Some opponents of same-sex marriage believe that politicians will have to heed public opinion and back the federal constitutional amendment.

"When the lawsuits start to export what happens in Massachusetts, you will have a political powder keg," said Matt Daniels of the Alliance for Marriage. He helped draft the proposed federal amendment and has said recent action in the state legislatures proves the "grassroots" theory will create a political tide against gay marriage.

But it looks more likely that the U.S. Supreme Court will rule before that happens.

"There will be a split of authority -- one state court will say it's valid, another will say it isn't," said Duke University law professor William Reppy. "Then the U.S. Supreme Court would have their hand forced and hear the case. They don't let splits of authority run rampant around the country for very long."

*By Jule Gardner, Online NewsHour*

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