



GAY MARRIAGE DEBATE REIGNITED AFTER NEW JERSEY DECISION

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The issue of gay marriage has resurfaced on a national level following a court ruling that clears a path for gay marriage in New Jersey.

"Although we cannot find that a fundamental right to same-sex marriage exists in this state, the unequal dispensation of rights and benefits to committed same-sex partners can no longer be tolerated under our state constitution," New Jersey Supreme Court Judge Barry Albin wrote in the decision.

The court gave the state's legislature six months to rewrite the law to provide benefits for gay couples via same-sex marriage or "civil unions," which give couples the same rights as married couples without using the word "marriage."

New Jersey politicians said in a statement the deadline was too soon to make the required changes, but the gay rights group Garden State Equality said three state legislators were prepared to introduce a bill that would allow same-sex marriage.

Legal definitions

In New Jersey, gay couples in "domestic partnerships" already receive some benefits if one partner is a state employee, according to Bloomberg News, but the new ruling allows expansion of their benefits to parallel those of heterosexual couples.

Much of the debate has concerned the legal definition of words relating to marriage that have social implications.

In 1996, then-president Clinton signed the Defense of Marriage Act, whose stated goal was to "protect the institution of marriage." The act defined "marriage" and "spouse" for federal legal purposes as only applicable to opposite-sex couples.

A 1997 Government Accountability Office report said more than 1,000 federal laws include marital status as a factor, but the federal government has left it up to individual state lawmakers to interpret treatment for same-sex couples.

And their definitions can have huge social and economic implications for gay couples, including health benefits, child custody rights, pension benefits and property rights.

Precedent in other states

The American Community Survey suggests more than 20,000 same-sex couples lived in New Jersey in 2005, and the Associated Press estimates the largest proportion of gay households -- comprising more than 1 percent of all households -- are found in California, Massachusetts, Vermont and New York -- all sites of recent lawsuits.

The gay community was set back earlier this summer when a similar case to the one decided in New Jersey was rejected in a New York court.

In 2004, California's Supreme Court voided gay marriage licenses that had been issued in San Francisco. Also in 2004, Massachusetts became the only state to permanently allow "gay marriage" after the state Supreme Court ruled it was unconstitutional not to do so.

But unlike Massachusetts, which has a law preventing non-residents from marrying there, gay couples from other states could possibly marry in New Jersey if the state allows it.

Gay advocates also are putting faith in New Jersey because it is a liberal state controlled by a Democratic legislature that was one of the first to allow adoptive rights for gay couples.

Currently, the other most liberal states, Vermont and Connecticut, allow only civil unions, with legal rights equal to heterosexual marriages, but not gay marriage.

Conservatives respond

Soon after the New Jersey decision, President Bush reasserted his view that marriage be defined as a "union between a man and a woman." He tried to amend the U.S. Constitution to include such a statement earlier this year, but the Senate defeated the amendment.

Conservative groups also have been upset by the New Jersey decision.

Matt Daniels, president of Alliance for Marriage, said the New Jersey court overstepped its authority by pressuring the legislature to either allow gay marriage or civil unions.

"That is not democracy. That is court-imposed policy-making that takes this out of the hand of the people," Daniels told The New York Times.

The future of gay marriage

Cases similar to New Jersey are pending in California, Connecticut, Iowa and Maryland, and, according to the National Conference of State Legislatures, eight states -- Arizona, Colorado, Idaho, South Carolina, South Dakota, Tennessee, Virginia and Wisconsin -- will have same-sex union measures on the ballot in the Nov. 7 midterm election.

-- Compiled by Adnaan Wasey for NewsHour Extra

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