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Mass. Gay Marriage Law Contested

Divided Legislature Agrees to Revote Next Year for the 2008 Ballot

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Massachusetts legislators approved a measure yesterday that next year could allow voters to overturn a historic same-sex marriage law in the only state in the nation where such unions are legal.

A bitterly divided state legislature voted to advance a proposed amendment to the state constitution that defines marriage exclusively as a union between a man and a woman. If the measure survives another legislative vote, it will go on the statewide ballot in 2008, a presidential election year.

"It's in the best interests of children and society for marriage to be defined as between a man and woman," said Glen Lavy, a senior counsel with the Alliance Defense Fund, which strongly favors banning same-sex marriage. "The battle to preserve marriage in Massachusetts as between a man and a woman is alive and well."

Voters in 26 states have passed initiatives that effectively ban same-sex marriages. Voters in only one state -- Arizona -- have failed to approve such a ban.

Yesterday's vote fell like a hammer on gay-rights advocates, who have fought a half-decade-long war to gain the right to same-sex marriage in Massachusetts. In 2003 the Massachusetts Supreme Court ruled that same-sex couples have a right to marry, and 8,000 couples have since done so.

No gay or lesbian activist involved in this struggle tried to portray yesterday's action as anything but a setback.

"It's a profoundly disappointing vote," said Matt Foreman, executive director of the National Gay and Lesbian Task Force. "It's always wrong to put the rights of a minority up to a popular vote."

Only two years ago, Janet Lawn, 46, and her longtime partner, Maryann Chaisson, obtained a legal marriage. She recalls standing in their back yard as a Unitarian minister sounded the words: "By the power invested in me by the state of Massachusetts, I pronounce you married."

"The whole crowd erupted," Lawn recalled. "It was really wonderful on many levels having the dignity and respect to be able to say, 'I'm married.' "

And how does she feel now?

"Pretty awful," she says. "It's painful to have people think that it's okay to vote on the validity of my life and my marriage."

Both sides forecast a wrenching battle if the amendment goes on the ballot in 2008. The Catholic Church and various evangelical denominations have poured money and manpower into the effort. Outgoing Gov. Mitt Romney (R), a social conservative and a likely presidential candidate in 2008, has worked the telephones and has urged legislators to approve a vote on the proposed amendment.

"This is a huge victory for the people of Massachusetts," Romney said in a statement. "In a democracy, the voice of the people is sovereign."

It is by no means clear that Massachusetts voters will overturn the same-sex marriage law, even if they have the chance. In the last few years, a decided majority of state legislators -- and Gov.-elect Deval Patrick (D) -- have supported same-sex marriage and vowed to try to sink the proposed amendment in a legislative session later this year.

A Boston Globe poll last year found that 56 percent of respondents said same-sex marriages should be allowed by law, a sharp increase from a year earlier. **"It's going to be wrenching and divisive, but it's a fight the entire gay movement will take on," Foreman said.**

Grounded in state law, yesterday's vote was a peculiar one. Once supporters obtain enough signatures, they send the proposed constitutional amendment to the legislature. Only 50 of the 185 legislators need to approve a proposed constitutional amendment in sessions in two consecutive years for it to be placed on the state ballot.

Sixty-two legislators wound up voting for the proposed amendment yesterday; 134 voted against it.

More than a few activists see a bitter battle ahead, and one that could resonate in a presidential election year. "The Republicans use gay marriage as an issue to mobilize their base," Foreman said. "But the reality is that marriage in Massachusetts hasn't caused the sky to fall. The Red Sox even won the World Series since then."