

Calif. same-sex weddings will affect other states

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By DAVID CRARY



In this photo provided by Inga Sarda-Sorensen, Jennie Talley, left, and Inga Sarda-Sorensen pose on the terrace of their New York apartment, Wednesday June 11, 2008. The New Yorkers, who have been partners for more than 10 years, plan to travel to Southern California in mid-September to get married now that California's Supreme Court has ruled in favor of same-sex marriages. (AP Photo/Inga Sarda-Sorensen)

NEW YORK (AP) — After wedding-day celebrations subside, gay and lesbian couples from other states who marry starting this week in California face sobering challenges.

Many will return home to states which explicitly reject same-sex unions. Major gay-rights groups are urging them not to rush into lawsuits demanding that their marriages be recognized. Lawyers warn that they may have difficulty divorcing if things go awry.

"This is a very serious undertaking," said Richard Williams, a Chicago lawyer who has been helping local same-sex couples weigh their options.

"It may not be accepted here in Illinois, but it is legal, it is real," Williams said. "If you go to California and get married, there are potential problems and pitfalls that you have to think about."

Likely areas of contention could include inheritance, medical decision-making, health and pension benefits, and child custody.

Starting Monday, California will become the second state after Massachusetts to allow same-sex marriages, but the first to do so without any residency requirements. No one knows how many out-of-state couples will head there to wed, but for some it's an opportunity that's impossible to pass up.

"It's something we did not want to miss," said Inga Sarda-Sorensen of New York City, who plans a wedding in Malibu in mid-September with her partner of 10 years, Jennie Talley.

As New Yorkers, they've already gained some rights as registered domestic partners since 2004, but they view marriage as a big advance.

"When Jennie would tell co-workers we're domestic partners, people would say 'Oh, that's nice,' but they don't really get what that means," Sarda-Sorensen said. "When she told them she was going to California to get married, it was jubilation and hugs all around."

New Yorkers heading west for weddings have a big advantage over most other non-California same-sex couples. New York Gov. David Paterson has stipulated that state law requires recognition of legal marriages performed elsewhere, including same-sex unions.

Most other states have statutes or constitutional amendments specifying that marriage is between a man and a woman, and denying recognition to same-sex unions. The federal government also doesn't recognize such unions.

Worried that their court victory in California could be offset by defeats elsewhere, a coalition of nine national gay-rights groups last week issued an appeal — titled "Make Change, Not Lawsuits" — to gays and lesbians considering California marriages.

"Couples who want to should get married, call themselves married, and ask — sometimes demand — that family, friends, neighbors, businesses, employers and the community treat their marriages with respect," the statement said.

"But one thing couples shouldn't do is just sue the federal government or, if they are from other states, go sue their home state or their employer to recognize their marriage or open up the health plan," it added. "Bad rulings will make it much more difficult for us to win marriage, and will certainly make it take much longer."

Conservative legal groups opposed to same-sex marriage questioned whether that appeal would be heeded.

"We expect a large scale of lawsuits in various states across the country," said Austin Nimocks, senior legal counsel with the Alliance Defense Fund. "Obviously these groups want to go ahead in a cohesive strategy — but I don't think they'll be able to stop everybody."

Worried about possible legal chaos, attorneys general from several states asked California to postpone the start of same-sex marriage until after Nov. 4 voting on a state ballot measure that could ban such unions. The request was denied.

Shannon Minter, legal director of the National Center for Lesbian Rights, said litigation by newly married same-sex couples "should be an absolute last resort" — reserved only for cases where there is grievous injustice and a realistic chance of prevailing in court.

Minter also noted that same-sex couples marrying in California could find themselves with no efficient way to dissolve the marriage if it breaks down. States that don't recognize same-sex marriages might refuse to grant a divorce, and California — while lacking a residency requirement for marriage — does have one for divorces.

David Buckel, senior counsel for the gay-rights group Lambda Legal, said same-sex couples should be particularly cautious about marrying if one partner is not a U.S. citizen (deportation might result) or is in the military (dismissal could result under the "don't ask, don't tell" policy).

"With other couples, you've got to know what you're buying into," Buckel said. "Understand what you're going to face in your home state — understand that your own federal government requires discrimination against you by law."

Yet even in the face of non-recognition, Buckel said couples should be open about their marriage — for example when filling out forms to rent an apartment.

"You've got to be honest about it," he said. "That can be tough."

Debbie Hunt, a Houston lawyer with many gay clients, worries that same-sex couples from Texas will marry in California, then return home with false assumptions that they have marital protections in a state that in fact has banned same-sex unions.

"My job is to educate, let our clients make the ultimate decision," Hunt said. "But if they ask 'Should we do it?' my answer is: 'If you don't have to, please don't.'"

Hunt's advice helped dissuade Regina Cassanova and Jheri Dupart not to venture to California, though the partners of more than 10 years had been thrilled by the historic court ruling there.

"Even though we want the legal protection, maybe this isn't the right time for us," said Cassanova, 27. "Living in Texas, we could lose rights if we married in another state."

The couple hopes Texas will change its policy, but they're prepared to move elsewhere if necessary when they're ready to have children, Cassanova said.

Kansas, like Texas, has a constitutional amendment that bars recognition of same-sex unions, but that hasn't deterred Mike Silverman and Dave Greenbaum from planning to marry Tuesday in San Francisco.

Partners for 12 years, the men said they had no intention of filing lawsuits or seeking confrontations when they return home to Lawrence, Kan.

"We're not politicians or lawyers — we're not going to do anything but get back to our daily grind," Greenbaum said. "We'll hope our family, friends and community accept us just like any other couple."

Also planning a California wedding — date to be determined by availability of discount airfare — are Bonnie Aspen, 55, and Willow Williams, 48, of Spokane, Wash. They've been together 29 years, and registered last year as domestic partners when Washington adopted that policy.

Even if the marriage has no immediate practical effect, they yearn for it, Aspen said.

"We don't expect to come back and boom, Washington says you're married," she said,

"Getting a marriage license is one more step to help our state and the rest of the country move forward. In another 20 years this country will be very embarrassed by what it put some of its people through."

On the Net:

- Gay-rights groups' advisory: http://www.thetaskforce.org/press/releases/pr_061008