

Same-Sex Marriage News - The New York Times

In other states the issue moved one way and then another. A California court in 2008 ruled that a law barring same-sex marriage was unconstitutional. In a referendum that November, a ballot measure known as Proposition 8 was passed that restored the ban. Proposition 8 withstood a challenge in the state Supreme Court, which upheld the ban while allowing the marriages performed before it took effect to stand. But in August 2010, a federal judge found it unconstitutional, in a ruling that both sides say will end up before the Supreme Court. The ban ceased to have effect on Aug. 18.

A RUNNING BATTLE IN THE LEGISLATURES AND THE COURTS

The issue of same-sex marriage came to the fore after the Supreme Court of Hawaii ruled in 1993 that the denial of marriage licenses to three homosexual couples amounted to unconstitutional discrimination on the basis of sex — not sexual orientation — unless the state could show a compelling reason for the denials.

The Hawaii Legislature passed a bill in 1994 affirming marriage as intended for "man-woman units" capable of procreation. But in 1996, conservatives, fearful that the court case would lead to the sanctioning of marriages of lesbian and gay couples in Hawaii by the end of 1997, campaigned across the nation to insure that the recognition of same-sex marriages would not spread to other states.

The legislative battle picked up momentum as more conservatives became convinced a federal law was required. In September 1996, the United States Congress, approving what was called the "Defense of Marriage Act," voted overwhelmingly to deny Federal benefits to married people of the same sex and to permit states to ignore such marriages sanctioned in other states. The bill was signed by President Bill Clinton.

In 1998, Hawaii voters rejected the legalization of same-sex marriages.

Same-sex marriage first became a reality in the United States in 2004, after the Supreme Court in Massachusetts ruled that it was required under the equal protection clause of the state's Constitution. Connecticut began allowing same-sex marriage in late 2008.

In April 2009, Iowa's Supreme Court ruled in favor of allowing gay couples to marry, and the legislatures of Maine and Vermont passed laws granting the same right in the following weeks. In California, after a court decision in 2008 allowed the marriages, a voter referendum that November, upheld in court in May 2009, barred them.

The New Hampshire legislature approved revisions to a same-sex marriage bill on June 3, 2009, and Gov. John Lynch promptly signed the legislation, making the state the sixth to let gay couples wed and changing the landscape surrounding an issue that brings together deeply held principles and flashpoint politics.

Civil unions, an intermediate step that supporters say has made same-sex marriage seem less

threatening, are legal in New Jersey, Connecticut and Vermont. The latter two states are phasing them out after adopting same-sex marriage laws.

NEW ENGLAND

New England remains the nucleus of the same-sex marriage movement, with a campaign under way to extend marriage rights to gay men and lesbians in all six of the region's states by 2012.

Critics say the success of the movement in New England is largely because courts and legislatures, not voters, are making the decisions. Voters have approved constitutional bans on same-sex marriage in 26 states since the Massachusetts court ruling, a landmark, took effect; the constitutions of four other states also limit marriage to heterosexuals.

Gay rights supporters suffered a crushing loss when voters decided in November 2009 to repeal Maine's new law allowing gay men and lesbians to wed, setting back a movement that had made remarkable progress nationally over the course of the year.

Maine, with its libertarian leanings, had seemed to offer an excellent chance of reversing the national trend of voters rejecting marriage equality at the ballot box. Instead, it became the 31st state to block same-sex marriage through a public referendum.

In July 2010, [a federal judge in Massachusetts ruled](#) that the Defense of Marriage Act was unconstitutional, finding that gay and lesbian couples deserve the same federal benefits as heterosexual couples.

CALIFORNIA

Another major front in the debate is California. On May 15, 2008, the Supreme Court of California voted 4-to-3 that a state law banning same-sex marriage constituted illegal discrimination because domestic partnerships were not a good enough substitute. In its decision, the court wrote that whatever term is used by the state must be granted to all couples who meet its requirements, whatever their gender. The court left open the possibility that another term could denote state-sanctioned unions so long as that term was used across the board.

Opponents quickly organized, and launched the Proposition 8 initiative campaign, asking voters to ban same-sex marriages. After an expensive and hard-fought campaign, the measure passed on Nov. 4, 2008, with 52 percent of the vote. (Florida and Arizona also passed bans at the same time.)

Groups who had fought Proposition 8 immediately filed suit to block it. On May 26, 2009, the state Supreme Court upheld the voter-approved ban but also decided that the estimated 18,000 gay couples who tied the knot before the law took effect would stay wed. But in August 2010, a federal judge in San Francisco struck down the ban, saying it unfairly targeted gay men and women, handing supporters of such unions a temporary victory in a legal battle that seems all but certain to be settled by the Supreme Court.

The judge initially stayed his order, leaving the Proposition 8 ban in effect, then said it would be lifted as of Aug. 18, allowing same-sex marriages to resume.

In January 2011, a three-judge panel of the United States Court of Appeals for the Ninth Circuit, in San Francisco, asked the California Supreme Court for guidance on the issue of standing in a federal challenge to Prop 8. The order comes after former Gov. [Arnold Schwarzenegger](#) and his successor, Gov. [Jerry Brown](#), refused to defend the proposition in court. That has left the defense primarily to conservative legal groups and proponents of the measure.

PRESIDENT OBAMA AND GAY MARRIAGE

The flurry of activity in early 2009 has put pressure on President Obama to engage in a variety of gay issues. Mr. Obama has said he opposes same-sex marriage as a Christian but describes himself as a "fierce advocate of equality" for gay men and lesbians. While Mr. Obama has said he is "open to the possibility" that his views on same-sex marriage are misguided, he had offered no signal that he intended to change his position.

In February 2011, Mr. Obama directed the Justice Department to stop defending the Defense of Marriage Act against lawsuits challenging it as unconstitutional. The 1996 law barred federal recognition of same-sex marriage.

Attorney General [Eric H. Holder Jr.](#) sent a letter to Congress on Feb. 23 saying that his department will take the position in court that the act should be struck down as a violation of same-sex couples' rights to equal protection under the law.

The move is sure to be welcomed by gay-rights advocates, who had often criticized Mr. Obama for moving too slowly in his first two years in office to address such issues. Coming after the administration successfully pushed late in 2010 for repeal of the military's ban on gay men and lesbians serving openly, the change of policy on the marriage law could intensify the long-running political and ideological clash over same-sex marriage as the 2012 presidential campaign approaches.

While Mr. Obama has long argued that the Defense of Marriage Act is bad policy and has urged Congress to repeal it, his administration has also sent Justice Department lawyers into court to defend the statute's constitutionality.

SAME-SEX MARRIAGE AND RELIGION

Religious institutions have struggled with policies, privileges and rites regarding homosexuality, including whether or not to bless same-sex unions and whether or not gays and lesbians may hold positions of authority. There is no consensus among Christian faith groups on what the Bible says about homosexuality. Meanwhile, many individuals yearn for acceptance from their houses of worship.

In 2005, The United Church of Christ became the first mainline Christian denomination to support same-sex marriage officially when its general synod passed a resolution affirming

"equal marriage rights for couples regardless of gender." The resolution was adopted in the face of efforts to amend the Constitution to ban same-sex marriage.

In July 2009, at the 76th General Convention of the Episcopal Church, delegates including bishops, clergy and lay members, voted to open "any ordained ministry" to gay men and lesbians, a move that could effectively undermine a moratorium on ordaining gay bishops that the church passed at its last convention in 2006. Delegates also voted not to stand in the way of dioceses that choose to bless the unions of same-sex couples. Both issues have roiled the church for years.

Methodists, Presbyterians and American Baptist Churches have also debated the issues, and other Christian denominations have struggled with how to minister to gay and lesbian members.

Fundamentalist denominations have made significant efforts against homosexuality. The Southern Baptist Convention, for example, has expelled congregations that welcomed homosexuals to their memberships.

Reform Judaism, the largest of the main branches of Judaism, has for years allowed same-sex commitment ceremonies.

Islam prohibits same-sex marriage.