

Gay marriage likely to take effect soon in Mass.

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BOSTON — The Massachusetts Legislature has less than six months to decide how to make state law conform with a Supreme Judicial Court ruling that it is unconstitutional to deny gay and lesbian couples the right to marry.

Insurance agents and brokers do not have a lot of time to digest the ruling either and they are advised not to wait before informing their clients of the ruling's ramifications.

"I don't think agents and brokers should sit back and wait on this," said Andrew Sherman, senior vice president of Boston office of The Segal Co., a benefits consulting firm.

Sherman said agents should make sure employers including those in multi-states are aware how the ruling will affect their benefit programs. They should also be checking with their carriers to see what their response will be.

Sherman said that even though the number of same-sex employees likely to marry may be small, employers must still review their policies. Many of the benefits at issue — health, life, workers compensation and other workplace benefits, as well as hospital visitation rights and inheritance rights — involve insurance contracts and how marriage is defined.

For the most part, the ruling does not apply to traditional retirement plans, 401(k)s, Social Security, and health benefits that are federally regulated.

As for lawmakers, a lawyer for gay couples who brought the court action said they have no alternative to legalizing gay marriage other than amending the state's constitution.

Opposition to the ruling is expected in the legislature and there is likely to be a push for a constitutional amendment defining marriage as a union between man and woman.

But legal observers said it would take at least two years to amend the Bay State's basic document, so there is probably nothing lawmakers can do to stop marriage licenses from being issued at the end of the 180-day period.

If and when that happens, legal experts say the door will open to legalization of same-sex marriages in every state, based on the Constitution's "Full Faith and Credit Clause," which requires states to honor the "public acts, record, and judicial proceedings of every other state."

According to Evan Wolfson, executive director of Freedom to Marry, a New York City gay advocacy group, "Now it is no longer a hypothetical, it is a reality and it will affect marriage laws in every state."

The Massachusetts high court ruling took a significant step beyond a 1999 Vermont Supreme Court gay marriage decision, which led to the creation of that state's "civil union" law. Attorney Mary Bonauto, who represented the plaintiffs, said that in the Massachusetts case the court ruled that gay couples are fully entitled to legally wed and that creating a separate class of marriage such as civil unions would not be acceptable because the state constitution "forbids the creation of second-class citizens."

The U.S. House of Representatives is currently considering a constitutional ban on gay marriage, which promises to be a contentious issue in the 2004 election. Thirty-seven states have adopted laws or amendments that define marriage as between one man and one woman. □