

Gays Elsewhere Eye Marriage Massachusetts Style

By PAM BELLUCK

BOSTON, May 13 — Trey Watts and Darin Moore have never been to Massachusetts. They live in Oklahoma City, where Mr. Watts sells used cars and Mr. Moore is a beauty consultant at a salon.

But they plan to marry in Massachusetts this month, one of a first wave of gay couples expecting to do so when same-sex marriages become legal in the state next week.

The Oklahomans' plans fly in the face of an edict by Massachusetts' governor, Mitt Romney, who says out-of-state same-sex couples cannot wed here. But Mr. Watts and Mr. Moore are coming anyway, heading to Provincetown, on Cape Cod, one of three Massachusetts communities that have said they will defy the governor and marry out-of-state couples.

"As long as Provincetown's going to give marriage licenses out to whoever applies for them, we're going," Mr. Watts, a 30-year-old former Marine corporal, said in a telephone interview. "Regardless of what their governor says. We're hoping that the governor backtracks a little. But either way we're going. We're going to take a stand."

With Massachusetts about to become, on Monday, the first state to legalize same-sex marriages, the treatment of out-of-state couples has become one of the most controversial aspects of this highly controversial issue. And against that shifting and tension-fraught background, thousands of out-of-state couples eager to marry here are trying to decide what to do.

Governor Romney has threatened legal action against clerks who issue marriage licenses to out-of-state couples with no intention of moving to Massachusetts; such action could lead to fines of up to \$500 or a prison sentence of up to a year. He has also said the state will "refuse to recognize those marriages and inform the parties that the marriage is null and void."

Gay-marriage advocates say they will go to court to challenge the governor's directive, which is based on his interpretation of a 1913 law that says the state will not marry couples if they do not intend to move here and if their marriage would be "void" in their home state. The governor, saying that "Massachusetts should not become the Las Vegas of same-sex marriage," has interpreted the law to mean that since no other state performs gay marriages, only Massachusetts same-sex couples are eligible to marry here.

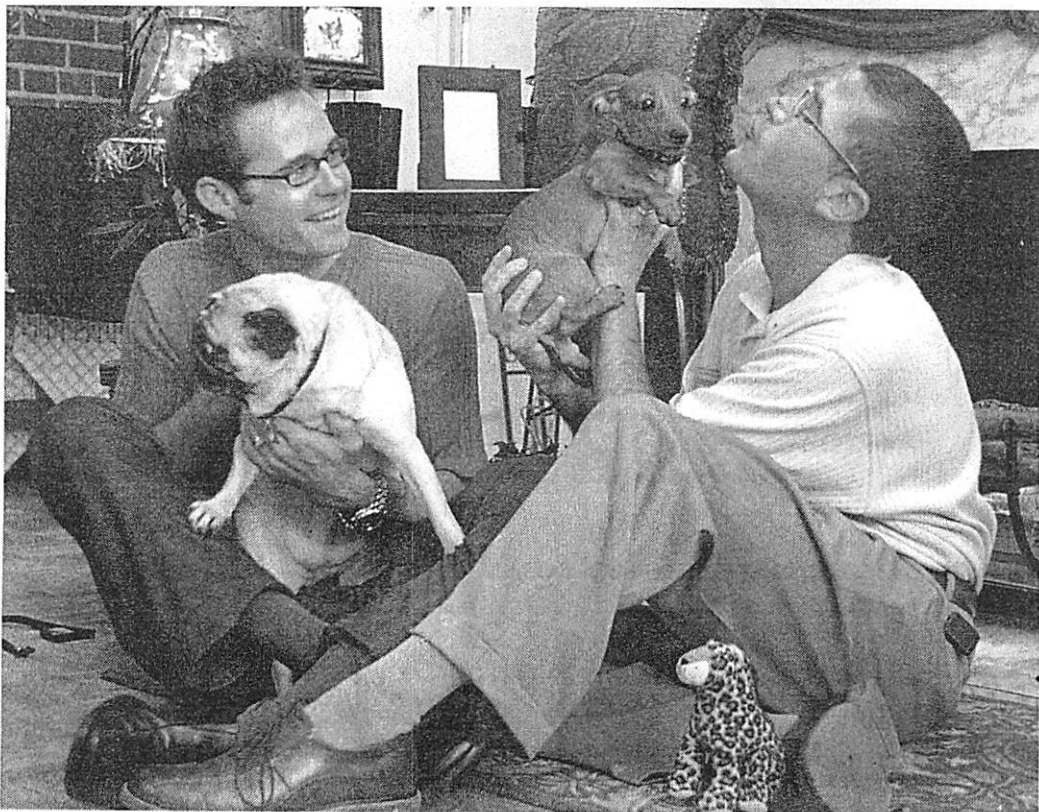
"We will be litigating this 1913 law," said Mary Bonauto, a lawyer with Gay and Lesbian Advocates and Defenders. "I don't think Massachusetts has any basis under our equality principles for enforcing discriminatory laws against other states."

There is also the possibility that states like New York, Connecticut and Rhode Island, which do not have laws explicitly barring same-sex marriage, will tell Mr. Romney that residents of their states should be able to wed in Massachusetts. Mr. Romney has informed every state that Massachusetts will not allow its residents to marry unless that state gives him a legal reason to do so.

New York's attorney general, Eliot Spitzer, issued an opinion in March saying New York could not marry same-sex couples but would recognize legal same-sex marriages performed in other jurisdictions. Mere recognition of same-sex marriages, however, would not persuade Mr. Romney. Instead, a state would have to assert that same-sex marriages are not "void" in that state, and New York, Rhode Island, Connecticut and the District of Columbia are deciding whether they can reach that conclusion.

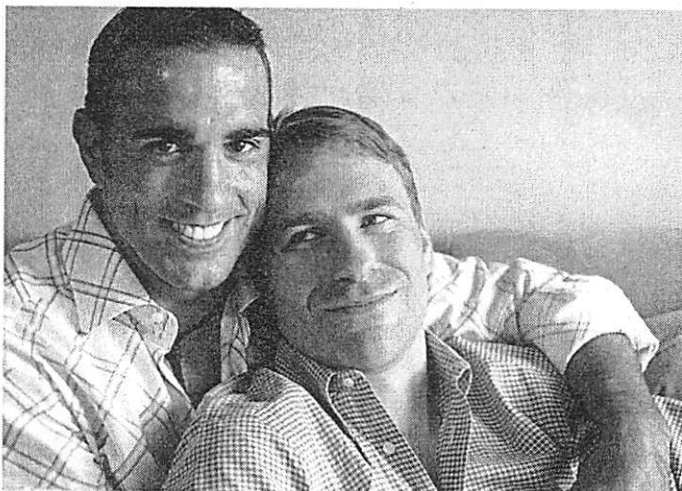
"We're looking at whether same-sex marriages can be performed in Connecticut — that is, whether there is authority to perform same-sex marriages in our state under current statutes," said Connecticut's attorney general, Richard Blumenthal.

Katie Zezima contributed reporting for this article.



Paul Hellstern for The New York Times

Trey Watts, left, and Darin Moore, Oklahomans, plan to marry in Massachusetts this month.



Ting-Li Wang/The New York Times

Santiago Arana, left, and Tom Wolfe are New Yorkers who expect to establish residency in Massachusetts by spending weekends there.

His office is also examining "whether and how the term 'void' would apply," he said.

There is wide variation in how municipalities plan to handle non-Massachusetts residents.

Some, like Great Barrington, will follow the governor's preference, issuing licenses to out-of-state couples only if they show real estate records or other proof that they intend to move to Massachusetts. Others, including Boston, will not ask for proof, allowing a couple to marry if they simply sign a form saying they intend to move to Massachusetts, an approach Mr. Romney initially rejected but later said was acceptable.

Provincetown, Worcester and Somerville, however, say they will give licenses to couples even if they state on the form that they have no intention of moving to Massachusetts. Officials in those towns say they can marry anyone who signs the form because it includes an oath saying the couple know of "no legal impediment" to their marriage's being

valid in their home state.

"We plan to follow the law, which says that if someone takes the oath and signs it, it's correct," said Cheryl Andrews, chairwoman of the Provincetown Board of Selectmen, who is gay and plans to marry her partner. "The problem seems to be that the governor has a different interpretation of it."

Ed Horvath, 53, and his partner, Richard Neidich, 64, both of Washington, D.C., where they plan to remain, will apply for a license in one of those three towns, even if Mr. Romney declares their marriage "null and void."

"We really think that Massachusetts is the place," said Mr. Horvath, adding that Mr. Neidich's successful battle with cancer last year had strengthened their desire to marry soon. "I have a very strong assumption that that law is going to be thrown out."

In any event, Mr. Horvath said, he has thought of buying a burial plot in Massachusetts, wondering "if having a grave site would be considered having an intention of residing there."

Some out-of-state couples plan to exploit established legal loopholes, especially one that allows people with weekend homes in Massachusetts to be considered residents.

Tom Wolfe and Santiago Arana, from the Hell's Kitchen section of Manhattan, will apply for a marriage license on Monday in Provincetown, claiming that a friend's Cape Cod home is their weekend residence.

"I want to go by the book," said Mr. Wolfe, a police officer in Suffolk County, N.Y., who said he and Mr.

Some same-sex couples plan to defy the governor.

Arana would actually start spending weekends in Massachusetts. "I'll modify my life," he said.

Lucy Mercier, 41, and Linda Campbell, 55, of Flint, Mich., are considering saying they intend to move to Massachusetts even though they have no current plans to.

"We have to decide how far we're going to go," Ms. Campbell said, adding that because they expected to be here a day or so before getting their license and to marry three days later, "at that moment we will have lived in Massachusetts for four or five days."

Other couples are being more cautious, including Matt Foreman, executive director of the National Gay and Lesbian Taskforce, who lives in New York and wants to marry his partner, Francisco DeLeon.

"I have hotel reservations, but at this moment we're not coming up," Mr. Foreman said. "I don't want to get in a situation of shading the truth. We really want to get married somewhere where there's no shadow over it, no legal cloud."

Cheryl Jacques, president and executive director of the Human Rights Campaign, another gay rights group, is encouraging couples to be careful.

"A lot of folks are taking a wait-and-see attitude, given the attention paid to the residency issue," said Ms. Jacques, a former Massachusetts state senator. "Some people are saying, 'Gee, I can't wait to go to Massachusetts to get married,' and I'll say: 'Make sure you talk to a lawyer first. There's a residency issue.'"

Not only are Mr. Watts and Mr. Moore planning to travel from Oklahoma to marry, a heterosexual couple, Jacquie Egan and Brendan Hoover, their next-door neighbors, will arrive with them and wed at the same time. Ms. Egan, a waitress, said she and Mr. Hoover hoped to show that it would be "completely unfair" to treat same-sex couples differently.

Mr. Watts, of course, agrees. "I served in the Marine Corps, got an honorable discharge, a Navy achievement medal, and yet I can't be afforded the same rights as a heterosexual person?" he said. "We don't want a legal battle, but at the same time we're not going to shrink from that."



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