

# Judge: County gay-rights law void in cities

## Jefferson, gays may appeal ruling by Circuit Court

By SHELDON S. SHAFER  
The Courier-Journal

The broad gay-rights law that Jefferson Fiscal Court enacted last October doesn't apply to Louisville or any of the 90 other municipalities in Jefferson County, a Jefferson circuit judge has ruled.

The ruling by Judge Stephen Ryan leaves Louisville with protections based on sexual orientation in only employment under a measure the city's Board of Aldermen enacted in January 1999.

Ryan ruled without explanation Friday in a two-paragraph order that the wider county law barring discrimination against gays in employment, housing and public accommodations is in force in just the unincorporated areas of Jefferson County.

The Fairness Campaign, the chief local advocate of gay-rights legislation, had hoped that the broader county protections would apply in Louisville.

"We don't believe it is the right ruling," Fairness Campaign spokesman Dan Farrell said yesterday of Ryan's decision. "We will now go back to

the Board of Aldermen to try to get the city to affirm what the county has."

Several aldermen were skeptical yesterday that the 12-member board would go beyond its current stand on gay rights any time soon. Steve Magre, president of the Board of Aldermen, provided the seventh vote needed last year for the aldermen to pass the employment provisions. So far, Magre has declined to support extending protections in Louisville to housing and public accommodations.

Peter Hayes, a leading opponent of gay rights, termed Ryan's ruling "great news" and said, "This is another step in the right direction."

Hayes said the opposition expects the Fairness Campaign again to lobby the aldermen to extend protection to housing and public accommodations. "This issue is not going away," he said. "The gay-rights movement has a big agenda and is well organized and financed. They won't just stop."

The city-county Human Relations Commission enforces local civil-rights laws. Phyllis Brown, the agency's executive director, said yesterday that three complaints have been filed under the Louisville employ-

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ment measure and two complaints have been filed in the unincorporated county under the employment provisions of the county ordinance.

Those investigations can proceed under Ryan's ruling, she said.

But Brown said one complaint related to housing had been filed in Louisville based on the assumption that the broader county provisions applied in the city. The commission will now probably have to seek guidance from city attorneys on whether to pursue that investigation in the wake of Ryan's ruling. "We may have to go back to the drawing board," Brown said.

She said relatively few complaints have been filed, but "everyone is entitled to protection in housing, public accommodations and employment, regardless of sexual preference."

A federal lawsuit by the American Center for Law and Justice, a group backed by televangelist Pat Robertson, is challenging the constitutionality of both the city's and the county's gay-rights measures. A federal ruling throwing out the laws would make any state court ruling on their application moot, lawyers agreed.

The case before Ryan was not ad-

versarial. Both the city and the county primarily wanted clarification of the county law's reach.

The city took the position that the broader county law should not apply in Louisville, mainly because Louisville has its separate civil-rights regulations. The city's zoning, alcoholic-beverage and adult-entertainment regulations also differ from the county's.

City Law Director Bill Stone said yesterday the city had argued that the county can't pass civil-rights laws that apply in municipalities, because the state has specifically given cities the power to enact civil-rights regulations. Louisville's attorneys contended that the ability to pass laws applies to all incorporated cities, including small ones, and, thus, they are out of reach of any county civil-rights law.

Stone said Ryan's ruling applies only to the gay-rights legislation and doesn't affect other county ordinances that do apply in cities.

The county attorneys had tried to convince Ryan that the county law should cover Louisville. Stuart Adams, the assistant county attorney who drafted the county gay-rights law, said yesterday the county argued that state home-rule authority pro-

vides for any county ordinance to apply countywide, unless a city has a broader or stricter ordinance.

The Fairness Campaign and two of its leaders, Jeff Rodgers and F.M. Chester, had intervened on the county's side in the case before Ryan.

Adams said that the county probably will ask Ryan to clarify his ruling, and that the decision might be appealed. Farrell said the Fairness Campaign leaders will discuss whether to appeal, even if the county doesn't appeal.

County Commissioner Russ Maple, who led the effort in Fiscal Court to adopt the broader gay-rights measure, was disappointed that Louisville residents won't have the protections of the county regulation.

"On this issue, it would be best if the community could speak with one voice," Maple said. "But the judge is the judge, and, in all honesty, I don't know what more the county can do."

Alderman George Unseld and Alderwoman Denise Bentley helped lead the push for Louisville's employment protections. Asked yesterday if he envisioned a board majority extending the protections to public accommodations and housing, Unseld said, "Anything is possible."

Bentley, however, said she had no

idea whether the board could muster a majority to expand the protections.

Alderman Barbara Gregg, a gay-rights opponent, said she expected the Fairness Campaign to resume lobbying the aldermen for extending the protections.

Among the larger of the county's 90 suburban cities, St. Matthews, Jeffersonton and Shively have not considered the legislation. But most officials in those cities had assumed the Fiscal Court law would apply in their cities.

Yesterday Shively Mayor Jim Jenkins said he doubted there was much sympathy on his city's council to pass a gay-rights law, especially in an election year.

And St. Matthews Mayor Art Draut said he couldn't think of any member of the St. Matthews council "who would bring it up."

Jeffersonton Mayor Dan Ruckriegel couldn't be reached for comment yesterday.

Hayes, the gay-rights opposition leader, said gay rights will be a major issue in local elections this year. He said opponents are targeting C District County Commissioner Darryl Owens, who voted for the county gay-rights law and is seeking re-election to a fifth term on Fiscal Court.