

Legislators discuss gay 'marriage'

By Cheryl Wetzstein
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The Massachusetts legislature, which meets year-round, is in its quiet season — no contentious issues are expected to be taken up before early January.

But behind the scenes, many meetings are being held on the Massachusetts Supreme Judicial Court's Nov. 18 ruling, which said same-sex couples were being denied the right to "marry."

The high court stayed its ruling for 180 days "to permit the legislature to take such action as it may deem appropriate in light of this opinion."

Supporters of same-sex "marriage" see the six-month stay as time for lawmakers to rewrite state marriage laws to conform to the decision.

For example, state law bars a woman from marrying her father or brother, said Mary Bonauto of Gay and Lesbian Advocates and Defenders. The law should be updated to say that a woman also is barred from marrying her mother or sister, said Miss Bonauto, the lead attorney for the homosexual couples who won the right to "marry" in *Goodridge v. Massachusetts Department of Public Health*.

But state Rep. Vinnie DeMacedo, a Republican who opposes same-sex "marriage," says the discussions he has been hearing about are going in a totally different direction, toward passing a state version of the federal Defense of Marriage Act (DOMA), defining

Massachusetts leaders favor civil-union law

marriage as the legal union of a man and a woman.

"I know that the administration is working hard to put up a strategy. I know the legislature is working to put up a strategy. But it's not gay marriage. It's 'Make a DOMA and provide a civil union within that,'" Mr. DeMacedo said.

A civil union would allow specific rights and responsibilities to same-sex and other non-traditional couples, but would not call them "marriages."

House Speaker Tom Finneran, a Democrat who opposes same-sex "marriage," has "been quiet, but he's been busy," added Mr. DeMacedo, a co-sponsor of a Massachusetts DOMA bill.

"He took the weekend off [after the ruling] just to read over the decision, go through it, have a powwow with the leadership," Mr. DeMacedo said.

Mr. Finneran "does not like being backed into a corner, and he's the type of guy who will take them on," Mr. DeMacedo said. "I don't believe the legislature is just going to sit back and rubber-stamp this as it is."

The next scheduled marriage-related legislative session is Feb. 11. That's when the Massachusetts House and Senate are to hold a constitutional convention to discuss a pub-

licly sponsored call to amend the state constitution to define marriage as the legal union between a man and a woman.

Many legal experts don't see any "wiggle room" in the Goodridge ruling.

It is a "landmark civil rights victory," worthy of being adopted nationwide, the Boston Bar Association said. "Any proposal for anything less than marriage sends the message that gay families are second-class citizens in the eyes of the law," it said.

But others, such as Brigham Young University law professor Lynn Wardle, don't think the high court did its job correctly.

The justices were supposed to interpret the state constitution in its "plain and ordinary meaning" and answer the question: When lawmakers included "due process" and "equal protection" in the constitution, "did they mean . . . that the state had to grant marriage licenses to gay couples?"

To rule that they meant such a thing is to "step into the looking glass — you're in never-never land. You start seeing Mad Hatters and crazy hares popping up," Mr. Wardle said.

Given enough time, he added, Massachusetts might well do what Hawaii did under similar circumstances in the 1990s.

Voters approved a constitutional amendment giving the legislature the sole right to redefine marriage, while lawmakers created a "reciprocal-beneficiaries" law to expand benefits to nontraditional couples.