

# Massachusetts court rules gays can marry

## But justices don't immediately give licenses to plaintiffs

By **TERENCE NEILAN**  
The New York Times

The highest court in Massachusetts ruled yesterday that homosexuals have the right to marry under the state constitution, stating that the Commonwealth had failed to identify any constitutional reasons why same-sex couples could not wed.

The ruling by the Supreme Judicial Court stopped short of immediately allowing marriage licenses to be issued to the seven same-sex couples who sued the state Department of Public Health in 2001 after their requests for marriage licenses were denied.

But the court gave the legislature six months to comply with its decision.

Advocacy groups for homosexuals and some Massachusetts legal organizations praised the decision, while opponents of same-sex marriages denounced it. Some state officials, including Gov. Mitt Romney, called for changing the state constitution to define marriage as a union between a man and a woman.

While yesterday's ruling fell somewhat short of what the plaintiffs were seeking, it was nevertheless a victory for gay-rights advocates, given the forceful language of the opinion.

"We are mindful that our decision marks a change in the history of the marriage law," the court said in its 4-3 opinion, written by Chief Justice Margaret Marshall.

"The question before us is whether, consistent with the Massachusetts Constitution, the Commonwealth may deny the protections, benefits and obligations conferred by civil marriage to two individuals of the same sex who wish to marry.

"We conclude that it may not."

The state's attorney general's office, which defended the Department of Public Health, argued that neither state law nor its constitution created a right to same-sex marriage. The state also said any decision to extend marriage to same-sex partners should be made by elected lawmakers, not the courts.

The court essentially stayed its order for six months "to give the legislature a chance to respond to regulation of same-gender marriage in terms of how they want to change the regulatory scheme in Massachusetts, the marriage statute, to respond to this new ruling," said Martin Healy, general counsel to the Massachusetts Bar Association.

"It does not allow the legislature to go back and adopt a separate scheme, if you will, for same-gender union, or marriage," he said.

Although "the assembly or citizens of Massachusetts could by referendum

change the state constitution," Healy said, such a move would be "a multiyear proposition."

Under the state constitution, the earliest an amendment could be voted on would be November 2006, Healy said.

In the interim, some legal analysts said, same-sex couples will be granted marriage licenses, he added.

The Supreme Judicial Court's decision was welcomed by the Boston Bar Association and the Massachusetts Bar Association.

Renee Landers, president of the Boston Bar Association, said, "Today's decision ... represents a landmark civil-rights victory, saying that a pervasive

and intolerable source of discrimination against gay people clearly violates our state constitution."

The president of the Massachusetts Bar Association, Richard Van Nostrand, called the opinion "a significant step forward toward recognition of the contemporary concept of marriage."

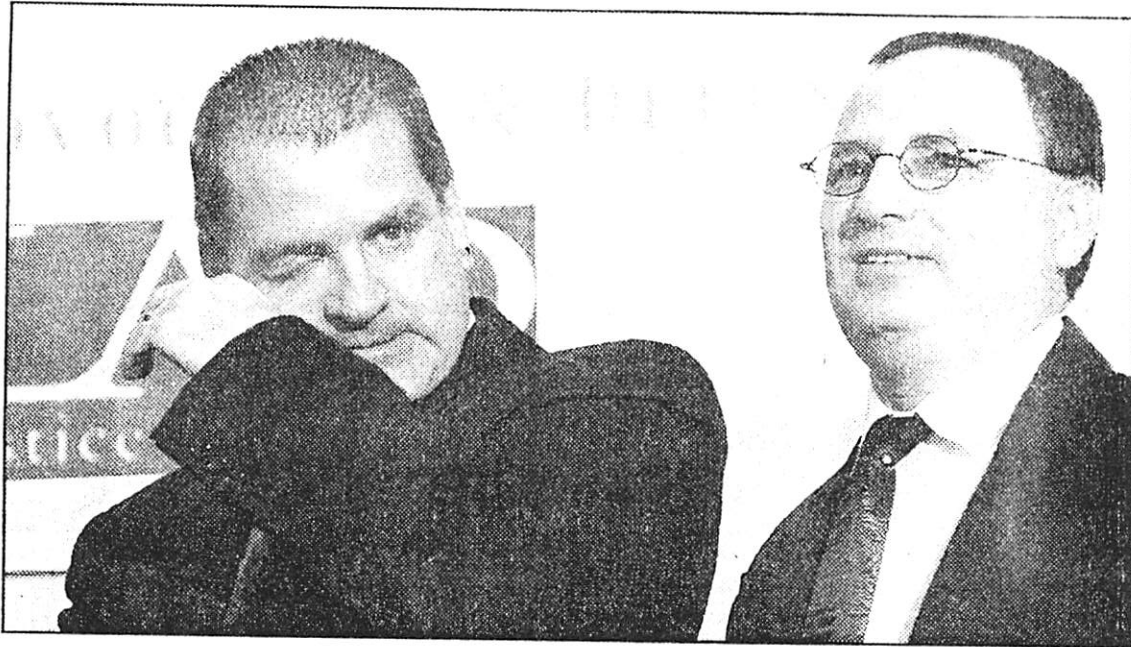
Evan Wolfson, executive director of Freedom to Marry, a national nonprofit organization dedicated to marriage equality for same-sex couples, said it was "a wonderful day for the families who will now be to take on the protections and the responsibilities of civil marriage, and for the country, because will see that families are helped and no

one is hurt when gay couples are allowed to marry."

Civil marriage licenses will be issued, and "people will have the chance to see that the sky doesn't fall," he said.

The Family Research Council, a conservative advocacy group, expressed unhappiness with the ruling.

"While we are certainly relieved that the court stopped short of granting marriage licenses to the homosexual couples demanding them, it is inexcusable for this court to force the state legislature to 'fix' its state constitution to make it comport with the pro-homosexual agenda of four court justices," the group's president, Tony Perkins, said.



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**Gary Chalmers wiped a tear while standing with partner Richard Linnell following the ruling that homosexuals are legally entitled to wed.**