

Adversaries on Gay Rights Vow State-by-State Fight

The New York Times
Sunday, July 6, 2003

Marriage Issue Seen as the Next Battlefield

By SARAH KERSHAW

SEATTLE, July 5 — Spurred on by the Supreme Court's landmark ruling decriminalizing gay sexual conduct, both sides in the debate over gay rights are vowing an intense state-by-state fight over deeply polarizing questions, foremost among them whether gays should be allowed to marry.

Even with most legislatures out of session until early next year, lively debates are already taking shape across the country, from Hawaii to Connecticut, Oregon to Alabama to Massachusetts. Potentially fierce battles over marriage and other rights loom in dozens of statehouses and state courts, as social conservatives — including the Senate majority leader, Bill Frist of Tennessee — try to breathe new life into a proposed constitutional amendment that would effectively ban gay marriage.

In dozens of interviews this week, activists, pundits on both sides and legal scholars from across the political spectrum said that with the Supreme Court's June 26 ruling in *Lawrence v. Texas*, the country was at a revolutionary moment akin to the aftermath of the decisions in *Brown v. the Board of Education*, which banned school segregation, and *Roe v. Wade*, which legalized abortion.

Parallels are seen to the effects of Roe v. Wade and Brown v. Board of Education.

"The right wing is really galvanized by this, throwing down the barricades," said William Rubenstein, a law professor at the University of California at Los Angeles and the faculty chairman of the Williams project on sexual orientation law.

At the same time, he said: "Gay rights activists are excited and want to go the next step. On the one hand the Lawrence decision gives advocates an enormous weapon in their arsenal, and at the same time it will mobilize opponents of same-sex marriage in ways we haven't seen."

Most agreed that the question of whether the United States will allow gays to marry would become the next major focus of both the gay rights movement and of social conservatives, now that the Supreme Court effectively removed what has been used by many states as the basis for discrimination on a wide array of civil rights questions.

A decision last month in Ontario to extend marriage rights to same-sex couples, which is expected to go into effect for the whole country by the end of the year, making Canada the third country after the Netherlands and Belgium to allow gays to marry, is also bound to put the gay marriage question on the front burner here.

"America has hit a tipping point in which fair-minded people now support equality and inclusion for gay people and most Americans are ready to accept marriage," said Evan Wolfson of Freedom to Marry, an advocacy group in New York.

"We are in a *Brown v. Board of Education* moment right now," Mr. Wolfson said. "The Supreme Court has said in the strongest possible terms that love and intimacy and family have deep constitutional protection for all Americans and that gay people have an equal right to participate. This gives us a tremendous tool for moving forward to end the discrimination."

"At the same time," he added, "it is important to remember what came after *Brown*: major legal challenges and acts of courage but also fierce resistance."

Glenn Stanton, senior analyst for marriage and sexuality at Focus on the Family, a national organization opposed to gay rights, agreed there would be resistance. "I think that what will happen is that states will be seeking to say, 'You know what? Don't bring any of that stuff here,'" he said. "We know what we want, we know what marriage is, and we know what sexual relationships are. They will be asking how they can protect life as they know it, rather than life as the Supreme Court tells them it's going to be."

State gay rights groups and social conservative groups are preparing for legislative and court fights.

"These are the first shots in the largest battle in the culture wars since *Roe v. Wade*," said Brian Brown, executive director of the Family Institute of Connecticut, a conservative group. "The people of Connecticut are not going to stand for this."

He added: "Politicians in Connecticut will have nowhere to hide. You'll have to choose a side. Either you support traditional marriage or you radically redefine it."

In the 2003 legislative session, Connecticut, Montana and Rhode Island debated bills that would permit same-sex marriage, all of which died, according to the Human Rights Campaign, a gay advocacy group.

No state permits same-sex couples to legally marry, but in 2000, the Vermont Legislature conferred on gay couples in the state all of the rights married couples enjoy, but that does not entitle them to hundreds of federal rights, or rights of married couples in other states.

In seven states, bills that would create civil unions similar to Vermont's were introduced, the Human Rights campaign said, and they died in all but two — California and Massachusetts, where they are pending.

Thirty-seven states already have what are called Defense of Marriage Acts, saying that marriage is between one man and one woman. In 2003, 10 states introduced bills that would either create one, if they were among states that had no defense of marriage act, or would prohibit rec-

ognition of same-sex marriages; civil unions or domestic partnerships forged anywhere else. Some of those states, including Texas, already had Defense of Marriage Acts but were seeking to expand them. Of those, only the Texas bill passed.

Gay rights groups said that even as they are emboldened by the Supreme Court ruling, they are also preparing for a backlash, especially in more conservative states.

Alabama is considered by gay rights activists to be one of the most resistant states to gay rights.

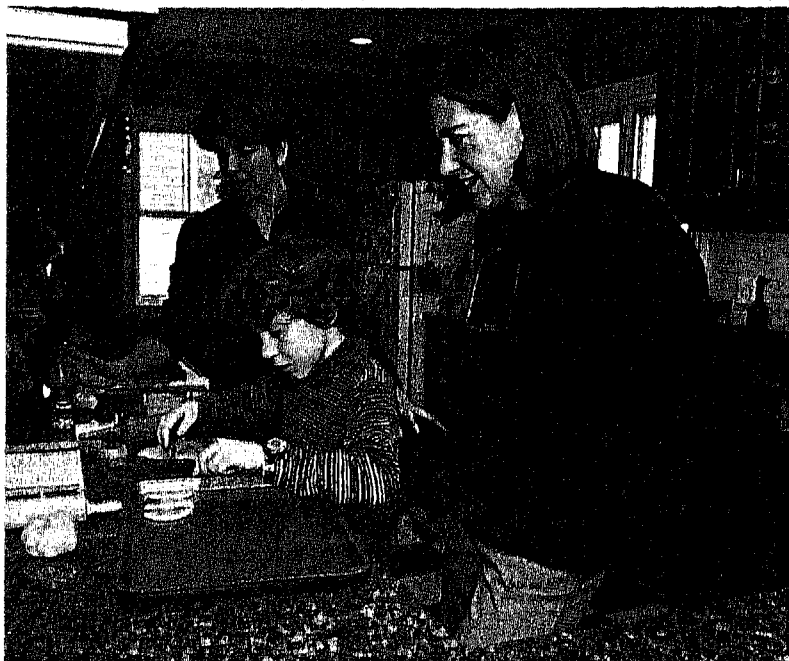
"Some people in our organization are very concerned about a backlash," said Ken Baker of Equality Alabama, a gay rights group. "We'll deal with it if it happens."

Another major battlefield is the courts. There are dozens of pending cases across the country relating to child custody, adoption, employment discrimination and gay marriage. Two court cases brought by couples seeking to legalize same-sex marriage in Massachusetts and New Jersey could yield landmark rulings.

The Massachusetts case, brought by Julie and Hillary Goodridge, who were denied a marriage license, could be decided this month.

A ruling for the plaintiffs would make the state the first to legalize gay marriage. Some social conservatives are already preparing.

"We're looking at this closely," said Len Deo, president of the New Jersey Family Policy Council. "Things are going to heat up. The next legislative session I'm sure is going to be feisty around these cultural issues."



John Bohn/The Boston Globe

Hillary, left, and Julie Goodridge with their daughter, Annie, at their home in Boston. The couple have gone to court seeking a marriage license.