

State lawmakers are pondering how to respond to the Vermont Supreme Court's recent ruling stipulating that same-sex couples cannot be denied the full range of benefits available through marriage.

The state Legislature convened Jan. 4 and is slated to adjourn April 15.

State Senate President Pro Tem Peter Shumlin, a Democrat, told *The Boston Globe*: "We're going to try our best [to finish in the course of this session]...but we have to do this right. I want to make sure that whatever we do works and doesn't result in another court challenge."

On the other hand, House Republican Leader Walter Freed said, "I don't think we have time to do it justice within the next 16 weeks."

In the landmark Dec. 20 decision, the state's high court ruled in favor of three same-sex couples who challenged the constitutionality of Vermont's marriage laws.

The justices declared that the "extension of the Common Benefits Clause to acknowledge plaintiffs as Vermonters who seek nothing more, nor less, than legal protection and security for their avowed commitment to an intimate and lasting human relationship is simply, when all is said and done, a recognition of our common humanity."

The court concluded that statutory benefits and protections of marriage must be extended to same-sex couples, and directed the legislature to remedy the discrimination.

The judges wrote: "We hold that the state is constitutionally required to extend to same-sex couples the common benefits and protections that flow from marriage under Vermont law."

"Whether this ultimately takes the form of inclusion within the marriage laws themselves or a parallel 'domestic partnership' system or some equivalent statutory alternative, rests with the Legislature. Whatever system is chosen, however, must conform with the constitutional imperative to afford all Vermonters the common benefit, protection and security of the law."

Speaking to the Vermont Press Bureau, Democratic state Rep. William Mackinnon said, "If there's a basic right here that's being denied to Vermonters, we'd better damn well find what it is and remedy it."

Vermont Gov. Howard Dean, a Democrat, told reporters: "It's in the best interest of all Vermonters, gay and straight, to go forward with the domestic partnership act, and not the gay marriage act. And that's what I intend to do."

Shumlin, meanwhile, noted: "Realistically, I think a partnership bill is something we can pass. Obviously marriage would be more difficult... I have no doubt that same-gender marriage is going to happen in the 21st century. I don't think Vermonters are ready for it yet."



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—Vermont Supreme Court ruling

IN ANOTHER COURT

Following a state Supreme Court decision boosting same-sex unions, Vermont legislators must now keep the ball rolling

Republican presidential candidate Gary Bauer placed the court's decision in the realm of terrorism.

"I think what the Vermont Supreme Court did last week was in some ways worse than terrorism," Bauer told reporters Dec. 27 at his New Hampshire campaign headquarters.

It is, he added, an example of "a judicial decision that attacks America's deeply held values."

But Holly Puterbaugh and Lois Farnham, one of the plaintiff couples, cheered the court's ruling. The duo will celebrate their 27th anniversary in October and say they look forward to the time when they "can finally make it official."

Stan Baker and Peter Harrigan of Shelburne, and Nina Beck and Stacy Jolles of South Burlington joined Farnham and Puterbaugh in challenging the state's refusal to grant them civil marriage licenses.

"It's really a win-win situation for everyone," says Susan Murray, co-counsel for the plaintiffs

from the Middlebury law firm Langrock Sperry & Wool. "The court's decision will provide added security and protection to same-sex couples and their families without taking anything away from anyone else."

Mary Bonauto, the plaintiffs' other co-counsel and civil rights director at New England-based Gay & Lesbian Advocates & Defenders, adds: "This is a legal and cultural milestone. The court recognized that same-sex couples need and deserve the same legal rights and protections other people take for granted. The court's decision paves the way for more secure families and stronger communities."

Same-sex couples in Vermont will now be eligible for the protections of a wide variety of laws that recognize the relationship of married partners.

For example, they will be able to inherit from each other without a will, make medical decisions if the other is incapacitated, transfer property to each other without tax consequences,

and take time from work to care for each other in the event of illness. A surviving spouse will be able to bury his or her partner, and same-sex couples can be treated as an economic unit for tax purposes. In the event that same-sex married partners break up, they can seek an ordered division of property through the divorce laws.

The parties filed their lawsuit in Chittenden Superior Court in July 1997 after each of the three couples was denied a marriage license by their local town clerk. The trial court dismissed the case in December 1997, and the plaintiffs appealed to the Vermont Supreme Court.

The Supreme Court heard oral arguments in the case in November 1998, and interested parties from all over the country submitted friend of the court briefs.

In its ruling, the Vermont Supreme Court suspended the case and retained jurisdiction in order to ensure that the Legislature crafts an appropriate response.

Not surprisingly, gay rights advocates nationwide were jubilant.

Gwenn Baldwin, executive director of the Los Angeles Gay and Lesbian Community Center, said at a press conference: "This is a profound and historic ruling that promises hope for social change for gays and lesbians. The message from the Vermont Supreme Court is: It's time to end discrimination, not enact it."

Mary B. White, a lesbian parent from Los Angeles, spoke of the difficulties faced by same-sex families.

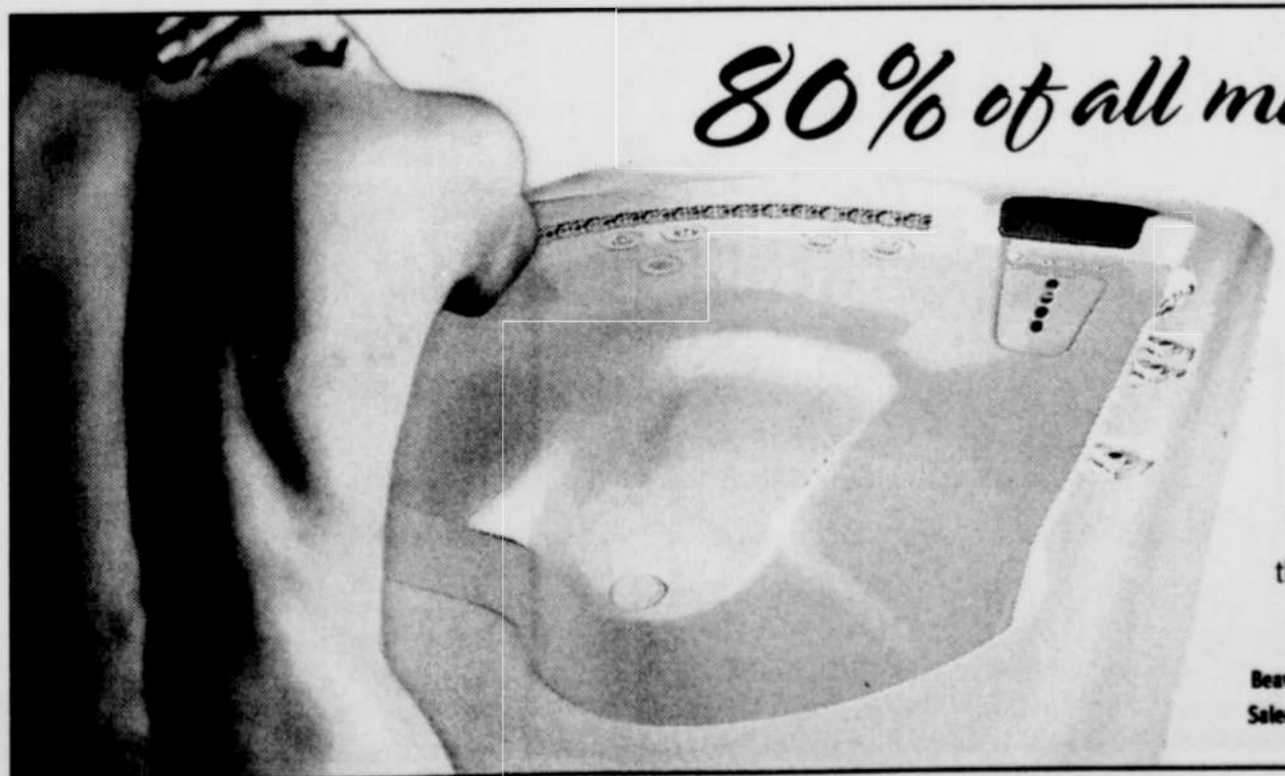
"I work to provide for my family so my partner can stay home and raise our baby," she said. "My insurance covers me and my baby, but does not cover my partner. It is a constant concern that my relationship is not recognized and protected under the law as a heterosexual couple would be, should something happen to one of them."

The Vermont decision comes just weeks before California's March 7 statewide election in which voters will consider Proposition 22, commonly referred to as the Knight initiative, which would bar recognition of same-sex marriages.

"The Knight initiative would enact the very discrimination the Vermont Supreme Court has ruled unconstitutional," noted Baldwin.

■ *The FOCUS GROUP ON FAMILY RIGHTS, a project of the Portland-based group Love Makes a Family, will meet at 5:30 p.m. Jan. 18 to discuss the Vermont Supreme Court ruling and its implications for pursuing domestic partnership registration within the city of Portland. For more information, call (503) 228-3892.*

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