

SOUTH CAROLINA

Despite feverish last-minute efforts, the Legislature ended its regular session June 3 without approving proposed legislation that sought to prohibit not only the recognition of same-sex marriages performed in any other jurisdiction but void "any public act, record or judicial proceeding" that extends benefits to "nonmarital relationships" such as domestic partnerships or civil unions. One of these so-called "Super DOMA" (Defense of Marriage Act) bills passed the House by a 93-7 vote March 17 but stalled in the Senate.

"This is a major victory," said Matt Foreman, National Gay and Lesbian Task Force executive director. "It shows that determined leaders can win against incredible odds."

South Carolina queers united to thwart the proposal, raising a war chest, hiring a well-regarded lobbyist and mounting a constituent pressure campaign focused on the Senate. In the closing hours of the session, the House attached the amendment to several unrelated pieces of legislation in the hopes of forcing a Senate vote. These efforts failed for a number of reasons, including a filibuster by one senator objecting to a gubernatorial appointment.

With this win, South Carolina became the ninth state where efforts to pass anti-marriage constitutional amendments have failed in legislatures this year. The others are Alabama, Arizona, Idaho, Indiana, Iowa, Kansas, Maryland and Minnesota.

Anti-gay forces have succeeded in placing anti-marriage constitutional amendments on the ballot in seven states: Georgia, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma and Utah. Another six states are at risk to have an amendment on the ballot.



Civil rights leader Julian Bond discouraged black legislators from amending the Louisiana Constitution to ban same-sex marriage

LOUISIANA

The Legislature has passed an amendment to the Louisiana Constitution that would ban same-sex marriage as well as deny civil unions and domestic partnerships to unmarried couples. The measure will appear on the Sept. 18 ballot and must be approved by voters.

House Bill 61 passed the House by an 87-11 vote May 18 and the Senate by a 31-6 vote June 9. It then returned to the House, which June 15 voted 88-13 to accept changes made by the Senate.

"We'll work to educate voters about the real harm this will do to their own family, friends, neighbors and co-workers in Louisiana," said Chris Daigle, executive director of Equality Louisiana. "We'll also make clear that this amendment is not only discriminatory, it's also unnecessary."

This measure proposes to amend the state constitution to declare that marriage is only between a man and a woman and that "any legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized." The effects of this measure could implicate the domestic partner registry in New Orleans as well as the domestic partner benefits extended to city employees, as well as tying the hands of localities and the Legislature

from extending any types of rights or benefits to same-sex couples.

The amendment had significant mainstream resistance. Every major newspaper in the state editorialized against it, and civil rights leader Julian Bond sent letters to members of the Louisiana Legislative Black Caucus in opposition.

Lawsuits were filed in federal court this month against five Louisiana nursing homes that refused to care for stroke victim Cecil Little because he has HIV.

In July 2003, Lambda Legal filed a complaint on the 50-year-old's behalf with the U.S. Department of Health and Human Services' Office for Civil Rights, arguing that the homes violated the Federal Rehabilitation Act, which prohibits facilities receiving federal funds from discriminating against people with disabilities. According to attorney Jon Givner, the circumstance faced by Little and his family is a growing issue as many people with HIV live longer and require different kinds of health care services—many of which have nothing to do with HIV.

In February 2003, Little suffered two strokes and brain aneurysms, leaving him on life support and in a coma for a month. A few weeks before he was discharged from the hospital, his mother and sister approached Tangi Pines, a nursing home within six miles of their house. It agreed to care for Little but—after learning of his HIV status—backed out just three days before he was due to arrive.

Five other nearby nursing homes also revoked their agreements to provide care. Eventually, out of desperation, the family had no choice but to move Little into a facility 80 miles away—where he lived for four months.

Kentwood Manor, one of the homes that initially rejected him, agreed late last summer to take him in after the discrimination complaints were filed. The complaint against that home has been dropped.

OHIO

A federal court issued a historic ruling June 1 asserting that transsexual employees are protected against workplace discrimination under existing law. The 6th U.S. Circuit Court of Appeals—which covers Michigan, Ohio, Kentucky and Tennessee—ruled that Title VII protects transsexuals and that the sex-stereotyping doctrine covers people who change their sex, marking the first such ruling by a federal appeals court.

The plaintiff, Jimmie Smith—a pre-operative, pre-transitional transsexual—was working as a firefighter in Salem when she began to transition from male to female. After she informed supervisors of the transition, her supervisors met with city officials to devise a plan to terminate her employment.

Salem's safety director called the plaintiff after the meeting. According to the court, the safety director called the "defendants' scheme a 'witch hunt.'"

Following the meeting, the city unfairly disciplined Smith and attempted to either force her out or terminate employment. The lower court threw out her claims under Title VII and



Jon Givner

another civil rights statute. But the 6th Circuit ruled that the trial court erred.

"In the 6th Circuit, it is no longer permissible for an employer to discriminate against an employee on the basis of stereotypes about gender nonconformity—even when the sole basis of nonconformity is the mere admission by a person of self-identification as a transsexual," attorney Randi Barnabee said. "They can no longer get away with sex discrimination against a gender-nonconforming person simply because that person can be labeled transgender or transsexual."

Historically, Title VII of the Civil Rights Act of 1964 has not been interpreted to cover trans people. However, most of those cases were decided before 1989's Price Waterhouse vs. Hopkins—the first Supreme Court case to conclude that Title VII prohibited sex stereotyping.

KANSAS

The Kansas Supreme Court has agreed to consider an appeal on behalf of a gay teenager who was sentenced to 17 years in prison for consensual oral sex, attorneys announced May 27. Matthew Limon has already been in prison for four years and three months—3 1/2 times longer than the maximum sentence he would have received if he were heterosexual.

In February 2000, Limon and another male teen-ager were students at a co-ed residential school for developmentally disabled youth in Miami County. A week after Limon's 18th birthday, he performed consensual oral sex on the other teen-ager, who was nearly 15—three years, one month and a few days younger than Limon. Limon was convicted under Kansas' "Romeo and Juliet" law, which gives much lighter sentences to heterosexual teen-agers who have sex with younger teens but specifically excludes gay teen-agers.

"Because he had sex with another male, Matthew Limon will be in prison until he's 35 years old," said Dick Kurtenbach, American Civil Liberties Union of Kansas and Western Missouri executive director. "For Kansas to sentence a gay person 13 times more harshly than it would a heterosexual for the same offense is clearly unconstitutional."

FLORIDA

The Log Cabin Republicans called on Gov. Jeb Bush to repudiate anti-gay statements made by his office in a May 20 constituent letter.

The correspondence, referring to basic protections for gays and lesbians, claims he "is not in favor of extending 'special rights' to the gay and lesbian community" and "believes that the state should not be in the business of actively sanctioning this particular lifestyle." The letter voices Bush's opposition not only to civil marriage equality but also to "gay and lesbian adoptions and the extension of domestic partner benefits."

"These statements are out of step with mainstream Florida families," said Patrick Guerriero, Log Cabin executive director. "They are opinions you would have expected in 1974, not 2004.... It is shocking that anyone, much less the Office of the Governor of Florida, would refer to such basic protections as 'special rights.' The right to visit one's partner in the hospital, the right to tax fairness and basic employment protections are not special rights, these are basic rights." □

Compiled by News Editor JIM RADOSTA, who can be reached at jim@justout.com.

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