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## Supreme Judicial Court Rules That Exclusion of Same-Sex Couples from Marriage Violates the Massachusetts Constitution: Ruling Likely to Have Far-Reaching Impact on Employment Laws

2003-11-21

In a landmark 4-3 opinion, which the Supreme Judicial Court acknowledged "marks a change in the history of [Massachusetts] marriage law,"

Massachusetts' highest court ruled that same-sex couples cannot be barred from entering into civil marriages. Construing the Massachusetts statute governing licensing for marriage as excluding same-sex couples, the court found that state action barring same-sex couples from civil marriages violates the Massachusetts constitution. The court reformulated civil marriage under the statute to include the voluntary union of two persons as spouses, to the exclusion of all others. The court also stayed its judgment for 180 days to "permit the Legislature to take such action as it may deem appropriate."

Based on the court's ruling, only a constitutional amendment could preclude same-sex marriages in the Commonwealth. Such an amendment would likely take several years to pass.

Pointing to the enormous private, property and social advantages bestowed on those who choose to marry, the court found that the statute "deprives individuals of access to an institution of fundamental legal, personal, and social significance" because of sexual orientation. The court ruled that the Massachusetts constitution protects matters of personal liberty zealously,

often more so than the federal constitution, even where the language is essentially the same, and that "barring an individual from the protections, benefits and obligations of civil marriage solely because that person would marry a person of the same sex" violates the Massachusetts constitution. Employers should be aware that this ruling may have widespread legal consequences, ranging from the structuring of benefit and pension plans to the administration of leave policies. During the 180-day stay of judgment, employers should begin to analyze their programs and policies to determine how they may be affected by potential changes to the legal landscape.

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