

MASSACHUSETTS CATHOLIC CONFERENCE

PRESS RELEASE

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Suit Seeks Sanction for Marriage With No Bounds

The court petition filed yesterday in Boston by advocates for gay marriage seeks to establish, according to the first page of the complaint, "the freedom to join in civil marriage with the person [you] love", making the lawsuit as radical an attack on the institution of marriage as one could imagine. A freedom so broadly fashioned, if sanctioned by the courts, would force the state to issue marriage licenses to *anyone* who professes to love *anyone*, or any two or three for that matter, notwithstanding the particular make-up of the couples filing the lawsuit.

Thus, the traditional distinction between a marriage of a man and a woman, and any other supposedly committed relationship, would have to be abolished. This distinction has served, and continues to serve, essential cultural functions based on the uniqueness of marriage between a man and a woman. Only the union between a man and a woman is capable of creating new lives uniquely inheriting the genetic make-up of the parents. No other relationship is capable of this particular fruitfulness. From this has flowed the reverence for marriage by the Jewish, Muslim and Christian faiths as a sign of profound realities linking procreation with our Creator. As long as society holds marriage sacred as traditionally constituted, it guards against misunderstandings of the human person that dehumanize us and that deny our spiritual nature.

The move to equate traditional marriage with other living arrangements solely on economic and emotional grounds disregards the institution's deeper significance and trivializes the centuries of

reflection that recognized the unique nature of marriage. If all marriage has become in the popular mind is a symbol of social status, a bridge to financial success, and a measure of one's emotional commitment, then we have lost a treasure.

Even those who profess no religious belief will have much to rue if the lawsuit succeeds. The state will become an accomplice to the re-engineering of a tradition that has anchored society and safeguarded the family. The common good will become hostage to the whims and extreme expectations of those who want their relationships, no matter how much they differ from the traditional understanding of marriage, enshrined in the law. Experience itself from across the centuries ratifies the fact that the lifelong commitment of one man and one woman in marriage gives full expression to the kind of relationship best suited to the procreation, rearing and education of children. Thus, the lawsuit threatens values beyond those involving religious concerns by inviting the courts to dictate profoundly disruptive social changes by judicial fiat. We hope and pray the lawsuit is rejected.

Brief Background on lawsuit filed in Boston to redefine marriage

Seven couples have filed a lawsuit in the Massachusetts superior court in Boston seeking to establish "the freedom to join in civil marriage with the person they love" and thereby overturn state policies restricting marriage to a man and a woman. Verified Complaint at 2, *Goodridge v. Dep't of Public Health*, No. ___ (Mass. Sup. Ct. Suffolk County filed Apr. 11, 2001). The suit is directed against the Department of Public Health as the agency ultimately responsible for administering marriage licensures in the Commonwealth.

The complaint alleges that "[a]part from the fact that they are of the same sex, each Plaintiff individually and each Plaintiff couple, is qualified to contract to marry". *Id.* at 29. The seven couples applied for, and were refused marriage licenses in Boston, Newton, Northbridge, Northampton, and Orleans between March 26 – April 4 of this year. According to the complaint, each couple "has been deprived of the opportunity to apply for a marriage license . . . because they are of the same sex." *Id.*

The complaint alleges that the Boston City Clerk's office cited the following provisions of Massachusetts law as barring the office from issuing marriage licenses to any couple other than those consisting of a single man and a single woman:

1. *Inhabitants of Milford v. Inhabitants of Worcester*, 7 Mass. 48 (1810), which states in part: "[Marriage] is an engagement, by which a single man and a single woman, of sufficient discretion, take each other for husband and wife" and "A marriage contracted by parties authorized by law to contract, and solemnized in the manner prescribed by law, is a lawful marriage; and to no other marriage are incident the rights and privileges secured to husband and wife, and the issue of the marriage." 7 Mass. at 51, 52.
2. *An Act Making It Unlawful to Discriminate On the Basis of Sexual Orientation*, 1989 Mass. Acts chap. 516, sec. 19, which states: "Nothing in this act [prohibiting discrimination on the basis of sexual orientation] shall be construed so as to legitimize or validate a 'homosexual marriage', so-called, or to provide health insurance or related employee benefits to a 'homosexual spouse', so called."

3. Mass. Gen. Laws chapter 207, which outlines "certain marriages prohibited by law" (including heterosexual incestuous and polygamous unions).

The complaint claims that "the custom and practice of refusing same-sex couples the opportunity for a marriage license" violates the state constitution's guarantees of equality, liberty, protection against being denied the "advantages and privileges" held exclusively by other "associations of men", and protection against being deprived of one's "immunities, or privileges", and right to free speech (Arts. I, VI, X, XII, XVI). The complaint also cites constitutional provisions recognizing the right of the people to change the government in order to avoid serving the "profit, honor, or private interests of any one man, family, or class of men" (Art. VII), and prohibiting the legislature from enacting laws "repugnant or contrary" to the constitution (Pt. II, chap. 1, sec. 1, art. 4). Complaint at 30. The parties seek a declaratory judgment that the traditional definition of marriage violates Massachusetts law. The complaint does not indicate whether the plaintiffs have applied for civil union status in Vermont.