

Massachusetts court says gays may wed: Conservatives say decision raises the stakes

News in the [February 24, 2004](#) issue

Turning the heat up on the national debate, Massachusetts' highest court has ruled that civil unions are not good enough to comply with the court's historic ruling in November that opened civil marriage to gay couples.

The Supreme Judicial Court, answering an inquiry from the State Senate, said on February 4 that homosexuals would be "second-class" citizens if denied full access to civil marriage. "The history of our nation has demonstrated that separate is seldom, if ever, equal," the court's four-justice majority said, adding that civil unions would "have the effect of maintaining and fostering a stigma of exclusion that the Constitution prohibits."

The court's ruling last year gave the legislature 180 days to comply. Since that window expires in May, the Bay State will be the first in the nation to allow gay couples to marry legally. A state constitutional convention planned for mid-February would not stop gay couples from marrying, since an amendment overturning the ruling, if passed, would need to be ratified by voters and would not take effect until 2006.

The court said a civil unions compromise similar to one enacted in Vermont would establish an "unconstitutional, inferior and discriminatory status for same-sex couples."

In Washington, President Bush called the news "deeply troubling" and reiterated his threat to support an amendment to the U.S. Constitution banning gay marriage—a lengthy process that would require passage by two-thirds of Congress and three-fourths of the states.

Conservative groups said the decision raises the stakes nationally for traditional marriage. “This case will determine the future of marriage throughout America,” said Tony Perkins, president of the Washington-based Family Research Council. “This decision leaves no doubt that we must, immediately, pass a federal marriage amendment.”

Catholic bishops have mounted a push against gay marriage and in favor of an amendment. Some Bay State religious leaders, however, welcomed the decision. William Sinkford, president of the Boston-based Unitarian Universalist Association, said his denomination is “delighted by the court’s refusal to create a second class of citizens by status discrimination.”