

Massachusetts Challenge to DOMA 'Politically Motivated'

✖ Traditional marriage supporters say a Massachusetts lawsuit challenging the constitutionality of the federal Defense of Marriage Act (DOMA) is a political move to force the nation to recognize same-sex marriage.

In a lawsuit filed Wednesday, Massachusetts Attorney General Martha Coakley said DOMA interferes with Massachusetts' right to define and regulate marriage as it sees fit, according to the Associated Press (AP). The act, passed in 1996, defines marriage as a union between a man and a woman, and allows states to refuse to recognize same-sex unions performed elsewhere.

Coakley also claims that limiting marriage to opposite-sex couples denies gay couples access to certain benefits, including federal income tax credits, retirement benefits, health insurance coverage and Social Security payments, the lawsuit says.

But traditional marriage advocates say the argument is a ruse.

"At bottom, the suit appears to be politically motivated and an attempt to force the federal government and federal taxpayers to recognize and support same-sex marriage regardless of whether they want to or not, DOMA notwithstanding," said Colby M. May, director and senior counsel for the Washington, D.C., office of the American Center for Law and Justice.

"I think it beyond peradventure that the federal government, for federal purposes, has the right to define marriage. Similarly, each state, for state purposes, has the same right—this is fundamental federalism."

Mathew Staver, founder and chairman of Liberty Counsel, said his firm plans to request permission to intervene on behalf of several individual clients to defend DOMA apart from the Justice Department, which represents the government in litigation.

In a statement Wednesday, Justice Department spokesman Charles Miller said his department planned to review the case, but noted that President Obama "supports legislative repeal of the Defense of Marriage Act because it prevents [lesbian, gay, bisexual and transgender] couples from being granted equal rights and benefits."

"I don't think this particular case has a chance of getting good traction," Staver told *Charisma*. "I think the complaint is sort of off-base, doesn't have good legal ground. However, there's no question in my mind that President Obama wants to repeal the federal Defense of Marriage Act. He is pro-same-sex union, and he sees that as an impediment toward his agenda."

Staver said the president may want the courts to strike down DOMA so he can avoid a political battle.

"I would say that he and his administration are probably encouraging these lawsuits and conferencing with different organizations and government officials to try to bring these lawsuits," Staver said. "Because who ends up defending them? It's the Obama administration, which is pro-same-sex unions. That's why it's important for us to get involved in this case and work on independent defense of this and other challenges to marriage laws or the federal Defense of Marriage Act."

The Massachusetts lawsuit is the second case to challenge DOMA

this year. On March 3, several same-sex couples filed a claim that said the federal law barred them from receiving more than 1,000 marriage-related benefits that heterosexual couples enjoy, the *Boston Globe* reported. The benefits include health insurance for spouses of federal employees and federal tax deductions for couples who file jointly.

Unlike the previous challenge to DOMA, Coakley argues that the law violates states' rights, an argument that has helped preserve traditional marriage in 30 states where voters passed constitutional amendments defining marriage as the union of one man and one woman. Massachusetts' Supreme Court legalized gay marriage in 2004.

The Catholic Action League called Coakley's lawsuit "another flagrant attempt by a minority to use the courts to impose its will on the American majority."

League executive director C. J. Doyle said the suit is "one more effort by Massachusetts to judicially export homosexual marriage to the rest of the country. One cannot help but note the shameless hypocrisy of a state government which had refused to allow its own citizens-the people of Massachusetts-to vote on the definition of marriage, now claiming that an act of Congress is intruding on its sovereign right of self-government."

A law recognizing same-sex marriages in the District of Columbia went into effect Tuesday. In addition to Massachusetts, gay marriage is currently legal in Connecticut, Iowa, Vermont, New Hampshire and Maine. However, traditional marriage supporters in Maine gathered enough signatures to stop the new law from going into effect in September and to force a statewide vote in November, the AP reported.