

= Same @-@ sex marriage in Maryland =

Same @-@ sex marriage has been legally recognized in Maryland since January 1 , 2013 . In 2012 , the state 's Democratic representatives , led by Governor Martin O 'Malley , began a campaign for its legalization . After much debate , a law permitting same @-@ sex marriage was passed by the General Assembly (Maryland 's bicameral legislature , composed of the Senate and House of Delegates) in February 2012 and signed on March 1 , 2012 . The law took effect on January 1 , 2013 after 52 @. @ 4 % of voters approved a statewide referendum held on November 6 , 2012 . The vote was hailed as a watershed moment by gay rights activists and marked the first time marriage rights in the United States have been extended to same @-@ sex couples by popular vote .

Upon the rise of the same @-@ sex marriage movement in the early 1970s , Maryland established the first law in the United States that expressly defined marriage to be a union between a man and a woman . Attempts to both ban and legalize same @-@ sex marriage in the 1990s and 2000s failed to gain enough support from central committees of the state legislature . Roman Catholic authorities throughout the state were adamantly opposed to the legalization of same @-@ sex marriage , saying it deeply conflicted with the best interests of society and would threaten religious liberty . The debates produced disputes between individuals who had been traditionally aligned on causes and prompted sharp criticism from African @-@ American religious leaders who said same @-@ sex marriage would " disrupt the fabric of the culture . "

Before passage of the Civil Marriage Protection Act , the state recognized same @-@ sex marriages performed in other jurisdictions following the 2010 release of a legal opinion from Attorney General Doug Gansler in his nine @-@ month analysis of comity laws . In 2012 , the Maryland Court of Appeals maintained Gansler 's analysis and issued a unanimous decision in Port v. Cowan finding that a same @-@ sex marriage performed out @-@ of @-@ state must be considered equal and valid under state law , despite its earlier decision in Conaway v. Deane (2007) in which the court upheld the statutory ban on same @-@ sex marriage as constitutional .

= = History = =

Maryland holds a unique place in the history of same @-@ sex marriage in the United States . In 1973 , it became the first state in the nation to define marriage as a union between a man and a woman , expressly banning same @-@ sex marriage . The General Assembly passed the law a short time after voters in the state ratified Article 46 of the Maryland Declaration of Rights , commonly referred to as the Equal Rights Amendment , in November 1972 . The constitutional provision prohibited discrimination in equality of rights on the basis of sex .

During the 1990s , attempts to both ban and legalize same @-@ sex marriage did not pass through the legislature . After a Maryland House of Delegates committee voted in March 2004 to reject a pair of marriage bills that would have submitted a constitutional amendment against same @-@ sex marriage to voters and invalidated same @-@ sex marriages performed in another state or foreign country , the American Civil Liberties Union (ACLU) and Equality Maryland filed a lawsuit , Deane & Polyak v. Conaway , to challenge the existing law on behalf of nine same @-@ sex couples and one bereaved man whose partner had died . The lead plaintiffs , from whom the case received its name , were Gita Deane , a learning specialist at Goucher College , and her partner Lisa Polyak , an environmental engineer for the U.S. Army Medical Department . The plaintiffs had applied for marriage licenses in several different Maryland counties but were denied by court officials . In their complaint , the plaintiffs argued that the state 's statutory ban on same @-@ sex marriage violated constitutional protections of due process , equality , and prohibitions against sex discrimination in Articles 24 and 46 of the Maryland Declaration of Rights .

In January 2006 , Baltimore Circuit Court Judge M. Brooke Murdock granted summary judgment to the plaintiffs , writing that " Family law § 2 @-@ 201 violates Article 46 of the Maryland Declaration of Rights because it discriminates , based on gender against a suspect class , and is not narrowly tailored to serve any compelling governmental interests . " She added that " tradition and social

values alone cannot support adequately a discriminatory statutory classification , " because " when tradition is the guise under which prejudice or animosity hides , it is not a legitimate state interest . " The judge immediately stayed the decision pending an appeal by the Attorney General of Maryland , which occurred later that day .

While the decision was favored by the plaintiffs , gay rights groups and their supporters ? including more than 100 religious leaders and child welfare advocates across the state who filed amicus briefs ? other local religious leaders and evangelical ministers were upset by the decision and looked to state legislators to propose a constitutional ban on same @-@ sex marriage . Such an amendment was favored by then @-@ Governor Bob Ehrlich who said " my politics on this are very clear . We 're going to protect marriage . Traditional marriage . " In February 2006 , the proposed ban was rejected after opponents successfully amended it to legalize civil unions .

Consequently , Delegate Don Dwyer introduced a resolution to impeach Judge Murdock in 2006 , alleging " misbehavior in office , [willful] neglect of duty , and incompetency " for her trial court decision ; in 2007 , he introduced a law that would ban discussion of same @-@ sex unions in public schools . One lawmaker said " It is a clear attempt to intimidate judges and to make the judiciary subservient to the legislature , " and Michael Conroy , former President of the Maryland State Bar Association , said that " No basis in fact or law exists to support any suggestion to impeach Murdock for her recent decision on same @-@ sex marriage . " David Rocah , an attorney for the ACLU , called the resolution " a frivolous , dangerous and extremist response from the lunatic fringe . " Both of the measures failed to pass through committee .

= = = Conaway v. Deane & Polyak = = =

The Court of Appeals , Maryland 's highest court , agreed to hear the state 's appeal in 2006 , bypassing the intermediate court . To the surprise of spectators , there were almost no questions from the judges during oral argument , which took place on December 4 , 2006 , causing speculation that the court may have taken the appeal just to reverse the Circuit Court ruling . On September 18 , 2007 , the court issued its decision in Conaway v. Deane , overturning the trial court ruling for the plaintiffs in a 4 ? 3 decision , and holding that the statutory ban on same @-@ sex marriage did not violate the Maryland Constitution .

Judge Glenn T. Harrell , Jr. wrote that because the statute equally barred both men and women from marrying partners of the same sex , it was not discriminatory on the basis of sex and thus , does not violate the Equal Rights Amendment (ERA) as plaintiffs argued . Judge Harrell said that the ERA was intended to prohibit sex discrimination against women and did not apply to this case , which he said was a matter of sexual orientation . Judge Lynne A. Battaglia wrote a dissenting opinion stating that the statutes and ordinances in Maryland barring discrimination based on sexual orientation , in addition to the state 's lack of prohibiting LGBT adoption and its recognition of same @-@ sex couples as co @-@ parents , support the argument that denying committed same @-@ sex couples the full benefits and privileges of marriage is not related to any rational government interest . Judge Battaglia said she would have remanded the case to circuit court for a full trial in order to settle what she deemed a central factual issue : whether the state could demonstrate that it had " broad societal interest " in retaining marriage in the traditional form . The dissenting opinion from Chief Judge Robert M. Bell faulted the majority for not recognizing gay people as a suspect class in need of protection from discrimination . He dismissed the majority view that gays are politically empowered and should not be viewed as constituting such a class .

Evan Wolfson , founder of Freedom to Marry , said that the decision was " deeply flawed " because the 4 ? 3 majority did not answer the question of how denying marriage to same @-@ sex couples affects the ability of heterosexual couples to procreate . Then ? President of the Human Rights Campaign , Joe Solmonese , called the decision a " setback " and Ken Choe , the ACLU attorney who argued on behalf of the plaintiffs , expressed hope that , unlike the majority of the bench , the state legislature would be able to see " that lesbian and gay couples form committed relationships and loving families just like heterosexual couples . "

= = Recognition of out @-@ of @-@ state marriages = =

State Senator Richard Madaleno requested in 2009 that the Attorney General answer the question of whether same @-@ sex marriages could be recognized by the state . In February 2010 , Doug Gansler issued an opinion after a nine @-@ month analysis of state laws stating that valid same @-@ sex marriages performed in other states that permit same @-@ sex marriage could be recognized under Maryland law . Gansler stated that the opinion was not binding on the courts and state agencies could begin immediately to recognize out @-@ of @-@ state same @-@ sex marriages . He said that he expected the opinion to be quickly challenged in court .

The opinion garnered negative reactions from some Republicans , socially conservative Democrats , and several African @-@ American lawmakers , including delegates Emmett C. Burns , Jr. and Don Dwyer , who spoke out against the opinion and promised to initiate impeachment proceedings against Gansler . " It is not up to the attorney general , and that 's the reason I will be bringing charges of impeachment , " Dwyer said in statement where he described the attorney general as usurping the law . The Roman Catholic archbishops of Washington and Baltimore and the bishop of Wilmington also took " strong exception " to the decision .

= = = Port v. Cowan = = =

Recognition of same @-@ sex marriages from other states became precedent when the Court of Appeals agreed to hear a case from Prince George 's County , where two women who were legally married in California had been denied a divorce by the circuit court . On May 18 , 2012 , the court published a unanimous ruling in Port v. Cowan that validated the marriage of Jessica Port and Virginia Cowan because it said " no viable decision by the Court had deemed a valid foreign marriage to be ' repugnant ' , " even if the marriage was void or punishable as a crime were it performed in Maryland . The opinion cited conflicts that arose from decisions in Anne Arundel and St. Mary ? s counties where two same @-@ sex couples had their petitions for divorce granted , and another case in Baltimore City where it was denied . The decision of the court was based on the state 's traditional use of the common law doctrine of comity , which specifies that Maryland " will give effect to laws and judicial decisions of another state or jurisdiction , not as a matter of obligation but out of deference and respect . "

= = Legislative action = =

After the Court of Appeals upheld the statutory ban on same @-@ sex marriage in 2007 , state senator Gwendolyn Britt of Landover Hills , along with delegates Victor R. Ramirez and Benjamin S. Barnes , sought to sponsor a marriage bill in the legislature . On January 12 , 2008 , Britt died of heart failure . Equality Maryland executive director Dan Furmansky , who originally approached Britt to sponsor the legislation , said her death was a " devastating loss , but civil rights struggles are greater than any one person , and as our fight for equality in Maryland continues , her spirit will be with us . " On January 25 , 2008 , the Religious Freedom and Civil Marriage Protection Act was introduced in the House of Delegates . The Senate version of the bill was introduced by senators Richard Madaleno and Jamie Raskin the same day . Advocates held a rally in support of the bill on February 11 , 2008 , but it ultimately failed in committee , alongside a constitutional ban introduced by Don Dwyer .

= = = Domestic partnerships = = =

While early efforts to legalize same @-@ sex marriage failed , the legislature approved two bills in 2008 that granted all unmarried couples certain domestic partnership rights , including the ability to make hospital and nursing home visits , end @-@ of @-@ life choices and other medical decisions , in addition to rights to joint property ownership . Domestic partners must be at least 18 years old and be able to provide an affidavit attesting to their relationship along with two documents , such as joint

checking accounts , mortgages or car leases ; coverage on health insurance policies or the designation as a primary beneficiary in a will . The laws went into effect on July 1 , 2008 .

= = = Civil Marriage Protection Act = = =

The General Assembly first considered the Civil Marriage Protection Act in 2011 . Governor Martin O 'Malley stated that he would sign the bill , despite urges from then @-@ Archbishop of Baltimore Edwin Frederick O 'Brien requesting that he " resist pressure to do so . " O ? Malley said " I have concluded that discriminating against individuals based on their sexual orientation in the context of civil marital rights is unjust . I have also concluded that treating the children of families headed by same @-@ sex couples with lesser protections under the law than the children of families headed by heterosexual parents , is also unjust . " On February 24 , 2011 , the Senate , which was thought to be the biggest obstacle to passage , approved the bill in a 25 ? 21 vote . The House of Delegates proved to be a challenge , where same @-@ sex marriage advocates struggled to gain support from social conservatives from Prince George 's County , southern Maryland , and the Baltimore suburbs who cited religious concerns .

The debate highlighted disagreements between openly gay lawmakers and some black lawmakers on whether same @-@ sex marriage is a matter of civil rights . Delegate Emmett C. Burns , Jr. said : " If you want to compare same @-@ sex marriage to civil rights as I know it , show me the Ku Klux Klan that invaded your home . " Delegate Keiffer J. Mitchell , Jr . , grandson of NAACP chief lobbyist Clarence M. Mitchell , Jr . , said " It is a civil rights issue when we as a state and a government deny equal protection under the law . " Several delegates who originally co @-@ sponsored the bill began to express doubts after being lobbied by church @-@ going constituents , including Sam Arora and Tiffany Alston , who delayed the bill 's vote in the House committee by skipping the voting session . The bill passed through the committee after its chairman , who rarely votes in committee , voted in favor . The House majority whip opposed the bill . Despite pleas from gay lawmakers , the House of Delegates voted to send the bill back to committee on March 11 , 2011 and would not reconsider it before January 2012 .

= = = Referendum = = =

The Civil Marriage Protection Act was reintroduced to the General Assembly on January 23 , 2012 . The new version of the bill contained provisions that more explicitly protects religious leaders , institutions , and their programs from legal action if they refuse to officiate or provide facilities for a same @-@ sex marriage or couple as a matter of their doctrine . During the legislative process , several high @-@ profile political figures attempted to persuade legislators to vote in favor of the bill , including former President Bill Clinton , former Vice President Dick Cheney , Terry McAuliffe , and Ken Mehlman . The House of Delegates passed the bill with a 72 ? 67 vote on February 17 , 2012 and the Senate passed with a 25 ? 22 vote on February 23 , 2012 . To secure support from some lawmakers who desired to submit the law to public referendum , the bill was amended to take effect on January 1 , 2013 .

Governor O 'Malley signed the bill on March 1 , 2012 . In June 2012 , referendum supporters submitted 109 @,@ 313 valid signatures to the state secretary , more than the 55 @,@ 736 required for a ballot in Maryland . The language of Referendum Question 6 informed voters that the Civil Marriage Protection Act would allow same @-@ sex couples to obtain a civil marriage license , protect clergy from having to perform any particular marriage ceremony in violation of their religious beliefs , and affirm that each religious faith has exclusive control over its own theological doctrine regarding who may marry within that faith . On November 6 , 2012 , the measure passed with 52 @.@ 4 % of the vote . On November 29 , 2012 , the attorney general issued a legal opinion stating that court clerks could accept applications for same @-@ sex marriage licenses immediately and issue them on December 6 , 2012 , as long as the effective date on the licenses specified January 1 , 2013 . 20 out of the 23 counties in Maryland and the city of Baltimore chose to issue the licenses ahead of schedule . The definition of marriage in the state of Maryland is now the following :

Only a marriage between two individuals who are not otherwise prohibited from marrying is valid in this State .

= = Economic impact = =

A study from the University of California , Los Angeles estimated in 2007 that extending marriage rights to same @-@ sex couples would result in a net gain of approximately \$ 3 @. @ 2 million each year to the state budget . The study drew on data from the U.S. Census Bureau and Maryland statistical reports . The gain is attributable to savings in expenditures on means @-@ tested public benefit programs and an increase in sales and lodging tax revenue from weddings and wedding @-@ related tourism .

Another Williams Institute study conducted in February 2012 estimated that in the first three years after the law takes effect , Maryland same @-@ sex couples will generate between \$ 40 and \$ 64 million for the state economy , in addition to whatever revenue out @-@ of @-@ state couples bring . Several dozen small employers in the state have also said that same @-@ sex marriage will be good for their businesses , helping to attract and retain talent .

= = Marriage statistics = =

In 2013 , there were 40 @,@ 456 marriages in Maryland , an increase of 23 % from the year prior thought to be largely attributed to the legalization of same @-@ sex marriage on January 1 . The state has not recorded such a significant increase in the number of marriages since 1970 .

= = Public opinion = =