



Same Sex Divorce: Live in Massachusetts or Stay Married Forever?

by CAROLYN BLAKE on MARCH 8, 2010

What's worse than getting a divorce?

Maybe not having the right to do so...

Surely by now you have heard of the landmark decision, *Goodridge v. Department of Public Health*, in which Massachusetts became the first state to allow all same-sex couples to marry. In 2008, the right to marry in Massachusetts was extended to same sex couples living outside of Massachusetts as well. With the advent of same-sex marriage comes, unfortunately, same-sex divorce. In fact, we have seen a rise recently in the number of same sex couples filing for divorce in Massachusetts.

This is all fine and well for Massachusetts residents who have the benefit of statutes regulating the division of property, alimony, child custody and child support in this state. But what about the couples who cross state lines to get married and then return to their state where gay marriage is not recognized? What if they later decide to divorce? Until recently, they had only two options (neither is good):

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1. Move to a state where gay marriage is recognized. Live there long enough to satisfy the state's residency requirement. Then file for divorce; or
2. Stay unhappily married. *Forever.*

Couldn't divorce just be as easy as bringing soup back to the deli? If only you could just return your marriage license (get the fee back), grab your marriage certificate from the city clerk (keep the wedding gifts) and be on your merry way.

As you can imagine, states who do not recognize gay marriage have started to deal with this issue in unpredictable ways. Most states simply do not allow same sex couples to divorce. In a pending [Texas case](#), Travis County district judge granted a lesbian couple's divorce (interestingly, the couple married in Massachusetts years earlier) only to have the Texas Attorney General jump in and attempt to appeal the decisions.

Hope for divorcing same-sex couple comes from two recent [New York Supreme Court cases](#), where couples who were married in Massachusetts were allowed to divorce in New York.

For those of you who are fellow residents of the Commonwealth, bet you never felt so lucky to have the right to divorce.

May you never exercise it...

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