



Written by [Dave Bohon](#) on June 26, 2013

## High Court Rulings Strike Blows to DOMA, California's Prop. 8

The Supreme Court used a pair of anticipated rulings June 26 to strike a blow to traditional marriage in the United States. The ruling against the federal Defense of Marriage Act (DOMA), along with a decision to let stand a lower court ruling striking down California's Proposition 8 marriage protection amendment, had homosexual activists looking hopefully toward a full-blown legalization of same-sex marriage across the nation, and conservative, pro-family leaders vowing to continue their efforts to protect traditional marriage.



In the DOMA case, which has the most far-reaching consequences for marriage across America, the High Court struck down a key provision of the law barring “married” same-sex couples from receiving the same federal tax, health, and retirement benefits that traditional married couples enjoy. The [American Center for Law and Justice](#) explained that in effect, the 5-4 ruling means that “the federal government must provide the same benefits to same-sex spouses as opposite-sex spouses, if the same-sex marriage has been lawfully performed. In other words, if a gay couple is married in a state that recognizes gay marriage, then the federal government will recognize that marriage on the same basis as a traditional marriage.”

Writing for the majority, Justice Anthony Kennedy argued that the “avowed purpose and practical effect of [DOMA] are to impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of the States. The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the state, by its marriage laws, sought to protect in personhood and dignity.”

Kennedy — an erstwhile “conservative” justice whose siding with Ginsberg, Breyer, Sotomayor, and Kagan made the majority — opined that the “principal effect” of DOMA was to “identify and make unequal a subset of state-sanctioned marriages. It contrives to deprive some couples married under the laws of their State, but not others, of both rights and responsibilities, creating two contradictory marriage regimes within the same State. It also forces same-sex couples to live as married for the purpose of state law but unmarried for the purpose of federal law, thus diminishing the stability and predictability of basic personal relations the State has found it proper to acknowledge and protect.”

Writing a dissent for the minority justices, which also included Thomas, Alito, and Chief Justice Roberts, Associate Justice Antonin Scalia insisted that “to defend traditional marriage is not to condemn, demean, or humiliate those who would prefer other arrangements, any more than to defend the Constitution of the United States is to condemn, demean, or humiliate other constitutions.”

Signed into law by President Clinton in 1996 with overwhelming clearance by both the House and Senate, DOMA provided a traditional definition of marriage for the benefit of federal laws and business,



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barring homosexual relationships from recognition for IRS or Social Security purposes and prohibiting the same-sex partners of homosexual federal employees from sharing in insurance and other employment benefits.

Mr. Clinton insisted that circumstances of the time compelled him to sign DOMA into law, and that he now views the law as unconstitutional. "Among other things, [homosexual] couples cannot file their taxes jointly, take unpaid leave to care for a sick or injured spouse, or receive equal family health and pension benefits as federal civilian employees," Clinton said. "Yet they pay taxes, contribute to their communities, and, like all couples, aspire to live in committed, loving relationships, recognized and respected by our laws."

Among those praising the High Court's ruling on DOMA were President Obama, who said in a statement that the law "treated loving, committed gay and lesbian couples as a separate and lesser class of people. The Supreme Court has righted that wrong, and our country is better off for it."

By contrast, Austin R. Nimocks, Senior Counsel for the conservative legal advocacy group [Alliance Defending Freedom](#), said that the High Court "got it wrong in saying that a state that has redefined marriage can force that definition on the federal government. The federal government should be able to define what marriage is for federal law just as states need to be able to define what marriage is for state law. Americans should be able to continue advancing the truth about marriage between a man and a woman and why it matters for children, civil society, and limited government."

He added that "marriage — the union of a husband and wife — is timeless, universal, and special, particularly because children need a mother and a father. That's why 38 states and 94 percent of countries worldwide affirm marriage as the union of a man and a woman, just as diverse cultures and faiths have throughout history."

Other pro-family and conservative groups offered similar reaction to the High Court decision. Russell Moore of the Southern Baptist Convention's Ethics and Religious Liberty Commission called the ruling "far-reaching, with massive implications for family life and religious liberty. The grounding of this decision in equal protection and human dignity means this is not simply a procedural matter of federalism. This is a new legal reality."

In the case of California's Proposition 8, the voter-passed constitutional amendment defining marriage in that state as only between a man and a woman, the Supreme Court ruled that the amendment's supporters lacked legal standing to appeal the lower court's ruling that struck it down in 2010. "The public is currently engaged in an active political debate over whether same-sex couples should be allowed to marry," wrote Chief Justice John Roberts for the 5-4 majority in the case. "We have never before upheld the standing of a private party to defend the constitutionality of a state statute when state officials have chosen not to. We decline to do so for the first time here."

[Baptist Press News](#) noted that the ruling on Prop 8 "made for an unusual mixture of conservative and liberal justices on each side. Joining Roberts in the majority were Scalia, Ginsburg, Breyer and Kagan. Dissenting were Kennedy, Thomas, Alito, and Sotomayor."

Predictably, following the ruling California Gov. Jerry Brown lost no time in announcing that he had directed the California's Department of Public Health to "advise the state's counties that they must begin issuing marriage licenses" to homosexual couples throughout the state once the Ninth Circuit of Appeals makes its final ruling in response to the Supreme Court's decision. The Ninth Circuit had earlier affirmed the ruling of a federal judge striking down Prop 8.



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Tony Perkins of the [Family Research Council](#) expressed relief that the the justices limited their decision only to California, noting that they “could have gone much further and struck down the marriage amendments which are in 30 states. They did not do that. This only applies to California, and how it’s going to be implemented we don’t yet know as we are still combing through the opinion.”

Responding to the Court’s ruling, the ADF’s Austin Nimocks, a member of Prop 8’s legal team, said that “despite the Supreme Court’s decision, the debate over marriage has only just begun. The court’s decision does not silence the voices of Americans. Marriage — the union of husband and wife — will remain timeless, universal, and special, particularly because children need mothers and fathers. This has been the experience of diverse cultures and faiths throughout history, including the American experience, and that will not change.” He added that “Americans will continue advancing the truth about marriage between a man and a woman and why it matters for children, civil society, and limited government.”



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