

Maryland high court to hear same-sex divorce case

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DEFENSE OF MARRIAGE ACT

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Maryland's highest court is considering a case involving a lesbian couple married in California but denied a divorce in Maryland because the state does not currently allow same-sex couples to wed.

Jessica Port, 29, and Virginia Anne Cowan, 32, were married in San Francisco in 2008 when the state was issuing marriage licenses to same-sex couples. They filed for divorce in Maryland nearly two years later when their relationship turned sour, their attorneys have said.

But a Maryland judge denied the couple's filing, ruling in 2010 that the divorce could not be recognized under the current state constitution.

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Port and Cowan appealed and Maryland's Court of Appeals took up their case last week, according to court documents. It's unclear when a ruling might be issued.

While the case highlights state differences in the recognition of same-sex marriages, analysts say it will likely have little influence outside Maryland because federal law allows states to ignore how other states define marriage.

"This is simply going to be a case about the Maryland state constitution," said Mark A. Graber, a law professor at the University of Maryland School of Law.

Passed in 1996 by a Republican-controlled Congress and signed into law by then-President Bill Clinton, the Defense of Marriage Act bars federal recognition of same-sex marriages and prevents states from imposing their definition of marriage elsewhere.

Gay rights activists say the matter often leaves same-sex couples in legal limbo when moving between states, claiming Maryland state courts have also inconsistently ruled on issues relating to same-sex marriages.

"Divorce is never easy, but when a couple has made the decision to end their marriage, there is no reason why the state should prevent them from ending their legal relationship and moving on with their lives," said Erik Olvera, a spokesman for the National Center for Lesbian Rights.

Last month, Gov. Martin O'Malley signed into law a bill that made Maryland the eighth state to permit same-sex couples to wed. The law, however, isn't scheduled to take effect until January 1, 2013.

The measure's opponents have pledged to challenge it by holding a referendum during November's election.

The Maryland Marriage Alliance group says it's gathered thousands of signatures and is approaching the threshold required to put the issue on the ballot, adding further uncertainty to the Port and Cowan case.