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California Awaits Court's Same-Sex 'Marriage' Decision

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By Lisa Leff, Associated Press

San Francisco (AP) - The nation's most populous state stood poised to recapture the spotlight in the debate over gay marriage as California's highest court prepared to rule on the legality of a voter-approved ban on same-sex unions.

The California Supreme Court planned to hand down its decision Tuesday in a series of lawsuits seeking to overturn November's Proposition 8. Gay rights advocates maintain the ballot measure so dramatically revised the state constitution's equal protection clause that it needed the Legislature's approval before it could be put to voters.

If the seven-member court upholds the initiative as a constitutional expression of the electorate's will, it also will be deciding whether to sustain the marriages of an estimated 18,000 gay couples who wed before the measure passed with 52 percent of the vote.

Proposition 8 superseded the Supreme Court's May 2008 ruling that legalized same-sex unions by changing the state constitution to outlaw them. In that 4-3 decision, the court majority invalidated California's marriage statutes, holding that denying same-sex couples the right to wed amounted to state-sanctioned discrimination.

But based on the skeptical questions raised during oral arguments, legal experts have doubted the same four justices would undermine California's powerful citizen initiative process by invalidating the new ban.

Since that March hearing, however, three other states -- Iowa, Maine and Vermont -- have joined Massachusetts and Connecticut in making same-sex marriage legal. The trend has offered gay rights advocates hope that the court might elect to make California the sixth state to extend marriage to gays and lesbians.

"Many of us are heading into Tuesday filled with both hope and determination," said Kate Kendell, executive director of the National Center for Lesbian Rights. "And we need to be clear that regardless of how the court rules, we will need both for whatever the next steps are."

Gay rights advocates have scheduled marches throughout California and in several other states for Tuesday evening. Organizers say the gatherings will be celebratory if the court rules in their favor and angry if Proposition 8 is upheld.

Activists in the San Francisco Bay area, including several clergy members, said they planned to block the street outside the courthouse and to be arrested in a mass show of civil disobedience if the justices do not invalidate the measure.

"Words are not enough right now. We believe it's time to put our bodies on the line to show that separate is not

equal," said Kip Williams, an activist with One Struggle, One Fight, a group that was launched in response to Proposition 8's passage.

In tense anticipation of the news to come, about 400 same-sex marriage supporters attended an interfaith prayer service held Monday night at San Francisco's Episcopal Grace Cathedral.

The Rev. Roland Stringfellow, with the Pacific School of Religion, said the service was meant to show how many communities of faith stand with gay couples on this issue. Among those to offer prayers were a Sikh mother, a Buddhist nun, a Jewish rabbi and Episcopal Bishop Marc Andrus.

Proposition 8's supporters, meanwhile, have not planned any organized events to accompany the decision. If a court majority invalidates the measure, angry voters would funnel their energy into unseating the justices who went along with the decision, predicted Frank Schubert, who managed the successful Yes on 8 campaign.

"If the court were to go as far as throwing it out, saying the people do not have the power to amend their constitution, then they are going to have to ultimately answer to the people," Schubert said.

One couple who will be anxiously awaiting the ruling are Karen Strauss and Ruth Borenstein, the lead plaintiffs in one of the lawsuits challenging Proposition 8.

The two women, partners for 17 years, had wanted to marry in the presence of their parents, who live in Florida. But Strauss' 84-year-old mother is dying of cancer, and they now realize she won't live long enough to attend their dream wedding no matter what.

"People who don't know us, who have nothing to lose by our decisions, had the opportunity to decide for us this most private and personal decision," said Strauss, 51, who will be across the country at her mother's bedside when the decision comes down. "That is a personally painful position to be in, whichever way it goes."

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