Lawfully Wed | Gay Marriage

A new era begins in Arizona

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said.

As rulings around the country have toppled laws banning same-sex couples from marrying, Arizona's law appeared doomed. A federal judge ruled Friday morning that Arizona's law banning gay marriages was unconstitutional, but it wasn't official until Attorney General Tom Horne announced a few hours later that he would not appeal.

Legal experts say the fate of Arizona's law defining marriage as only between one man and one woman is now sealed. A ruling from the U.S. Supreme Court reinstating marriage bans is unlikely. The high court last week declined to take cases challenging laws in five states, in effect directing them to begin issuing licenses to same-sex couples.

"I can't conceive of them overturning gay marriages that have now occurred all over the country," said attorney Dan Barr, one of the attorneys in a lawsuit challenging Arizona's law. "The Supreme Court would not have done what they've done if that's what they were going to eventually do."

Horne conceded the same during his news conference, saying the possibility of reversing a ruling last week from the 9th U.S. Circuit Court of Appeals striking down marriage restrictions in two other states was "zero," as is the likelihood of the Supreme Court taking up the case.

"I think this is over," he said.

Opponents of gay marriage, including Gov. Jan Brewer and Catholic bishops, criticized the judge's decision.

Arizona was the 31st state in the nation to legalize marriage for same-sex couples.

Simultaneous with his announcement, Horne sent letters to Arizona's 15 county clerks instructing them to begin issuing marriage licenses to same-sex couples.

"Effective immediately, the clerks of Arizona county Superior Courts cannot deny a marriage license to any otherwise eligible licensees on the grounds that the license permits a marriage between persons of the same sex," Horne wrote in his letter.

Maricopa County clerks' offices quickly began issuing licenses to same-sex couples at all its locations. Some offices already had couples waiting in lobbies as Horne addressed the media, said Chris Kelly, deputy clerk of the Maricopa County Superior Court.

"We had been planning for several months," including seeking advice from officials in other states on their marriage-license transition, Kelly said.

Couples can now choose the wording on their licenses from among the words "bride," "groom" or "spouse."

Phoenix made city judges available to perform marriage ceremonies in Mayor Greg Stanton's conference room Friday afternoon. Stanton passed out banana butter cream cake to the newlyweds.

By day's end, officials at the Maricopa County Clerk's Office estimated that they had issued nearly double the daily average of 77 marriage licenses. Figures for Arizona's 14 other counties weren't available.

Among the first to legalize their relationship were Karen Bailey and Nelda Majors of Scottsdale, who were plaintiffs in one of the lawsuits challenging Arizona's law. They've been together for nearly 57 years and for years felt they had to hide their relationship, even from the children they raised.

"I have no words to express how I feel. It's wonderful," Majors, 76, said as the couple emerged from the clerk's office.

Shawn Aiken, one of the attorneys in the two Arizona lawsuits challenging Arizona's ban, also celebrated Friday morning's historic developments.

"These couples from across Arizona bravely stood for equality for themselves, their families and over 21,000 other gay and lesbian couples living in Arizona today," he said in a statement. "Allowing my clients to marry causes no harm to heterosexual married couples or anyone else."

The Rev. Eric Ledermann, pastor at University Presbyterian Church in Tempe, who attended Horne's news conference, headed immediately to the San Tan and San Marcos courthouses in Chandler to preside over marriages.

Ledermann said Horne "lost with dignity."

"I never thought this day would come," Ledermann said. "I'm fairly new to Arizona, and my impression is that Arizona doesn't jump onto these bandwagons quickly. I just didn't think it would come — I didn't think we'd be able to move this quickly."

Others celebrated but said a court ruling would not eliminate discrimination and prejudice in their lives overnight.

The first same-sex couple to get a marriage license Friday at the Maricopa County San Tan Justice Court in Chandler said they had to hide their names for fear of job discrimination. "I feel bad because we're so proud, but we can't take any chances," one of the women said.

"I'd like people to know how much it means to now have our relationship recognized the same as everyone else's," she said, pausing as she started to weep. "It's not about the gender of the person, it's about who you love."

Lawsuits challenging Arizona's ban have been moving through the legal process for nearly a year, but developments over the past two weeks brought the issue to a swift conclusion.

Early last week, the U.S. Supreme Court declined to take the five cases from other states. A day later, the 9th Circuit declared laws banning same-sex couples from marrying in Idaho and Nevada violated couples' rights to equal protection under the 14th Amendment.

Arizona is part of the San Francisco-based circuit. But before conceding that the ruling applied to the state's marriage law, Horne sought an opinion from the Arizona federal court judge overseeing two lawsuits specifically challenging it.

Early Friday morning, U.S. District Judge John Sedwick ruled that the 9th Circuit opinion did apply to Arizona.

In deciding not to appeal Sedwick's decision, Horne on Friday cited a legal rule that says it is unethical to file appeals simply to delay a court proceeding.

"I believe this (gay marriage) should be a decision of the people, not of the judiciary," he said. But pursuing further appeals would be futile, he said.

But, he said, Arizona's fight to protect voters' decision in 2008 to define marriage as between one man and one woman had been worth it.

"I fought a good fight," he said.

While Horne oversaw the defense of Arizona's law, the Christian legal defense group Alliance Defending Freedom represented the state in court for free.

Alliance Defending Freedom has become the legal muscle defending much of the conservative legislation pushed by the Center for Arizona Policy, including the traditional definition of marriage.

Over the past decade, the National Christian Charitable Foundation has given more than $1.5 million to the Center for Arizona Policy and $31 million to Alliance Defending Freedom.

The foundation's donors are anonymous, but records have shown they've included executives connected to Chick-Fil-A and Hobby Lobby, both of which have taken positions against same-sex couples marrying.

While many celebrated, supporters of Arizona's marriage law expressed disappointment.

Arizona's Catholic bishops issued a statement saying the court's decision "reflects a misunderstanding of the institution of marriage."

"As Catholic bishops, we remain committed to affirming the truth about marriage and its goodness for all of society," they said in a statement. "It is our fervent hope that the Supreme Court will eventually reconsider the issue of marriage in the future."

Brewer, whose staff consulted with Horne in recent days, issued a statement before he made his announcement. The governor, a vocal advocate of traditional marriages, said that with its decision, the court was eroding the people's power and overstepping its boundaries. Brewer noted that Arizona voters in 2008 approved a state constitutional amendment to define marriage as a union of one man and one woman.

"Now, with their rulings, the federal courts have again thwarted the will of the people and further eroded the authority of states to regulate and uphold our laws," Brewer's statement said.

Center for Arizona Policy President Cathi Herrod, whose organization has been the ban's most vocal defender, said she was grieving.

"I am heartbroken for a country and a state that has had the redefinition of marriage forced upon them by an out-of-control federal judiciary," Herrod said in a statement. "Today, we grieve. We grieve for the children who now have no chance of growing up with a mom and a dad. We mourn the loss of a culture and its ethical foundation. We mourn a culture that continues to turn its back on timeless principles."

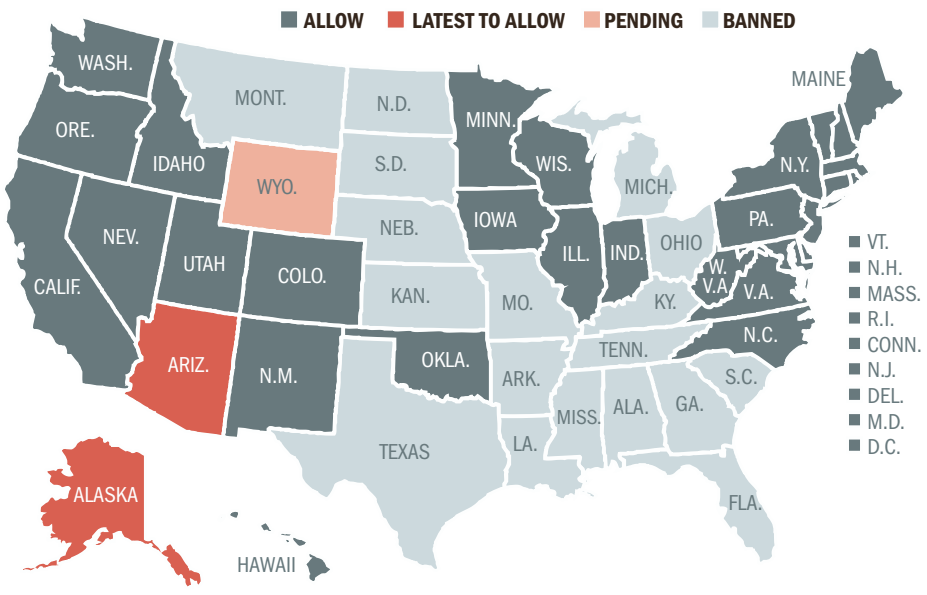
Republic reporters Mary Jo Pitzl, Yvonne Wingett Sanchez, Michelle Ye Hee Lee, Anne Ryman and Dianna M. Náñez contributed to this article.

TOM TINGLE/THE REPUBLIC

Vivian Mitchell, 26 (left), and Rochell McCarty, 33, both of Phoenix, are married outside Maricopa County Superior Court in Phoenix by the Rev. James Pennington. The county Clerk's Office said Friday that it issued nearly double the daily average of 77 marriage licenses.

Gay marriage, state by state

Arizona and Alaska became the two newest states to allow gay marriage Friday, bringing the total across the United States to 31. Same-sex marriage became legal in Alaska after the Supreme Court turned down that state's request to block gays and lesbians from marrying.



Wyoming could soon join the list. A judge on Friday ruled that the state's ban was unconstitutional, but granted a stay on issuing licenses until Thursday.

Appeals courts whose districts include Kansas, Montana and South Carolina, have struck down bans against same sex marriage.

Michigan, Ohio, Kentucky and Tennessee are awaiting appeals-court rulings.

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