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Attorney: Church bylaws should define marriage

by Michael Foust, posted Tuesday, February 12, 2013 (2 years ago)

Updated with information about the Baptist Faith & Message 2000.

NASHVILLE (BP) -- With the U.S. Supreme Court set to take up gay marriage and potentially legalize it this summer, churches that host wedding ceremonies or other events for traditional couples should examine their bylaws and shield themselves from the impact of possible litigation, says an attorney who specializes in religious liberty issues.

The justices are scheduled in March to hear two cases concerning gay marriage, and by June could either uphold the traditional definition of marriage or legalize gay marriage in all 50 states. Alliance Defending Freedom (ADF) -- a religious liberty legal organization -- is hoping for the former but preparing churches for the latter, just in case.

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A number of situations could place churches in legal trouble, such as congregations who would:

- allow a traditional couple but not a same-sex couple to use their facility for a wedding ceremony.
- allow a traditional couple but not a same-sex couple to take part in a marriage class or retreat.
- terminate an employee involved in a same-sex wedding.

Bylaw language defining marriage in the biblical sense doesn't mean a church won't face a suit or a complaint, but it does mean the church would be in a much better situation legally, said Erik Stanley, senior legal counsel for ADF.

"I think we're in a day where every church needs to have a statement in its bylaws of its doctrinal beliefs on marriage and sexuality," Stanley told Baptist Press. "This is a proactive approach that churches can take to head off any claims of discrimination in the future, should they occur. There's no magic language for such a bylaw statement, but it should be some form of a statement of the church's religious beliefs.

"What that does is it allows for a good defense of a church to any type of discrimination claim that may arise, by saying, 'Look, this is part of our religious beliefs.' When we fight on the ground of protecting a church's religious belief, then we have a lot of ammunition in our arsenal from a constitutional perspective."

Even without gay marriage legal nationwide, there have been lawsuits against churches.

In 1999 a woman who had worked as a youth minister at a Colorado Episcopal church was terminated after it was learned she was a lesbian living with another woman. She sued in federal court, but the lawsuit was dismissed, with the court ruling her suit was barred by the First Amendment. (The case was *Bryce v. Episcopal Church in Diocese of Colorado*.)

In 2001, a California church's worship minister, Bob Gunn, was let go when it was discovered he was gay. He sued the church, primarily because the pastor told the congregation why Gunn -- who was popular with members -- had been fired. The church won in court. (The case was Gunn v. Mariners Church.)

Some churches have affirmed the Baptist Faith & Message 2000, which defines marriage as between a man and a woman and calls homosexuality sinful. Asked whether the BF&M would be sufficient, Stanley replied, "That would be just fine for churches to adopt the BF&M 2000 in their bylaws on this issue. But the BF&M 2000 does not necessarily address the issue of human sexuality in depth, especially the issue of homosexual behavior. Churches may want to consider adopting a fuller statement regarding their biblical beliefs on human sexuality."

ADF has listed on its website suggested bylaw language for churches. (Read the two ADF articles on the subject -- <http://www.alliancedefendingfreedom.org/content/docs/issues/church/Suggested-Lang-Church-bylaws.pdf> and http://www.speakupmovement.org/Church/Content/userfiles/Resources/church_seven_bylaws.pdf. Also, read the suggested language at the end of this article.)

"What we tell churches is that the clearer and the more explicit you can make your religious beliefs about those issues, the better off you are going to be in defending yourself against a claim of discrimination," Stanley said. "Because then it becomes: You're not discriminating against an individual based upon their sexual orientation or marital status. You're making a decision to abide by your religious beliefs. And that's protected by the Constitution. The more that we can move this from the ground of a claim of discrimination based on sexual orientation or marital status to the ground of 'We are simply abiding by our deeply and sincerely held religious beliefs,' the better off a legal defense is going to be."

The legalization of gay marriage, Stanley said, will impact religious freedoms.

"Religious liberty is on the chopping block any time same-sex marriage is legalized or normalized in the culture," he said. "But we're not defenseless and we're not left hopeless. If same-sex marriage is legalized by the Supreme Court, these types of cases that we see pop up, they're just going to become more commonplace."

In January, Frank Page, president of the Southern Baptist Convention's Executive Committee, urged Southern Baptists and other Christians to pray for the Supreme Court as it takes up the issue of marriage. Read his column [here](#).

Following is ADF's suggested language on marriage and sexuality for church bylaws:

"We believe that the term 'marriage' has only one meaning and that is marriage sanctioned by God which joins one man and one woman in a single, exclusive union, as delineated in Scripture.

"We believe that God intends sexual intimacy to only occur between a man and a woman who are married to each other. We believe that God has commanded that no intimate sexual activity be engaged in outside of a marriage between a man and a woman.

"We believe that any form of sexual immorality, such as adultery, fornication, homosexuality, bisexual conduct, bestiality, incest, pornography or any attempt to change one's sex, or disagreement with one's biological sex, is sinful and offensive to God.

"We believe that in order to preserve the function and integrity of the church as the local Body of Christ, and to provide a biblical role model to the church members and the community, it is imperative that all persons employed by the church in any capacity, or who serve as volunteers, should abide by and agree to this Statement on Marriage and Sexuality and conduct themselves accordingly.

"We believe that God offers redemption and restoration to all who confess and forsake their sin, seeking His mercy and forgiveness through Jesus Christ.

"We believe that every person must be afforded compassion, love, kindness, respect, and dignity. Hateful and harassing behavior or attitudes directed toward any individual are to be repudiated and are not in accord with scripture nor the doctrines of the church."

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