

# California Supreme Court says it won't speed up Proposition 8 hearing

SAN FRANCISCO - With a one-sentence order, the California Supreme Court March 1 denied a request to speed up consideration of a key question in the appeal over the constitutionality of Proposition 8, the 2008 ballot measure that banned same-sex marriage.

The U.S. 9th Circuit Court of Appeal asked the state Supreme Court to decide whether state law gives initiative sponsors the legal standing to defend ballot measures when state officials refuse to do so.

Legal standing became an issue when California Gov. Arnold Schwarzenegger and Attorney General Jerry Brown - who succeeded him as governor Jan. 3 - both refused to defend the initiative in the appeals process.

The decision by the state's high court will determine whether Proposition 8 is overturned on narrow procedural grounds with limited impact or whether the case eventually reaches the U.S. Supreme Court on constitutional questions, the Los Angeles Times reported.

The plaintiffs opposing Proposition 8, which was approved by more than 7 million voters in 2008, also wanted the hearing moved up from September to May.

The appeal before the state Supreme Court was brought by a group of faith-based supporters of Proposition 8, including Catholics, along with Imperial County, after U.S. District Court Judge Vaughn Walker ruled last August that the initiative is unconstitutional under the due process and equal protection clauses of the 14th Amendment to the U.S. Constitution.

In the meantime, state Attorney General Kamala D. Harris urged the 9th Circuit to permit same-sex couples to marry during the Proposition 8 appeal. A three-judge panel of the circuit court had issued a stay, also last August, to prevent such

marriages from taking place while the appeal was pending.

“For 846 days, Proposition 8 has denied equality under law to gay and lesbian couples,” an AP story quoted Harris as telling the circuit court March 1. “Each and every one of those days, same-sex couples have been denied their right to convene loved ones and friends to celebrate marriages sanctioned and protected by California law.”

Harris was encouraged after the Obama administration said Feb. 23 it would no longer support the federal Defense of Marriage Act in legal challenges.

The law says the federal government defines marriage as a union between one man and one woman and that no state must recognize a same-sex marriage from another state.

The U.S. bishops’ Office of General Counsel said the Obama administration’s decision “represents an abdication” of its “constitutional obligation to ensure that laws of the United States are faithfully executed.”

“Marriage has been understood for millennia and across cultures as the union of one man and one woman,” the bishops said in a statement.

Writing in his diocesan newspaper, Oakland Bishop Salvatore J. Cordileone said California state officials’ decision not to defend Proposition 8 in court challenges and the Obama administration’s more recent announcement regarding the federal law are cause for concern.

“Regardless of one’s position on the marriage issue, these and so many other moves by our public officials should give cause for concern about the fate of democracy in our country,” the bishop said in his column in the March 4 issue of *The Catholic Voice*.

“The affirmation of marriage does not discriminate against anyone and casts no judgments on how people work out their intimate relationships, but rather affirms the most fundamental good in any healthy society,” the bishop said.

In the states where same-sex marriage has become the law, it “happened in a way

that avoids the democratic process, and sometimes even goes directly against it," he said.

"On the other hand, whenever the people have had the chance to vote on marriage, they have consistently affirmed it. And this, despite the proponents being outspent (sometimes by huge margins), facing opposition from the cultural elites and enduring strong media bias," Bishop Cordileone said, noting that in 31 states, voters have approved upholding "the traditional definition of marriage as a statute."