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Opinion

Equality in Montana should be a right

Story by Lauren Russell | April 9, 2009
Montana Kaimin

As the gay rights movement surged ahead Tuesday with the legalization of same-sex marriage in Vermont, legislative efforts to give gay Montanans basic anti-discrimination rights were stalled once again this session, a failure marking Montana as out-of-touch on equality.

Vermont, which was the first state to adopt civil unions for same-sex couples, joined Massachusetts, Connecticut and, as of last week, Iowa, in legalizing same-sex marriages and is the first to do so through legislative action rather than a court ruling. The victory shows that Vermont lawmakers recognize civil unions as an inadequate substitute for marriage and that creating a separate legal structure for determining benefits for gay couples does not achieve true equality.

Despite the passage of Proposition 8 in California, same-sex marriage legislation is on the docket in 10 other states this year, including New York, New Jersey, Minnesota, Washington and New Mexico. Currently, 26 states, including Montana, have voter-approved constitutional bans on same-sex marriage that were enacted after Massachusetts first legalized them in 2004.

This session, Montana legislators weren't asking for marriage. The three bills put forth and swiftly killed would have made it illegal to discriminate against someone based upon his or her gender identity or sexual orientation; included crimes based on perceived sexual orientation, gender expression or disability under current hate crime law; and established a domestic partnership registry that would have legitimized these unions so partners could acquire benefits like hospital visitation and joint property ownership.

It's well known that Montana isn't progressive when it comes to gay rights. It took until 1996 for courts to declare a law that criminalized consensual sex between gay men and lesbians unconstitutional. According to the National Gay and Lesbian Task Force, a statute passed in 1997 banned marriage and any other form of partnership recognition for same-sex couples, followed by the constitutional amendment banning gay marriage in 2004. Our domestic violence laws explicitly exclude same-sex survivors of domestic violence, and crimes based on sexual orientation or gender identity are not included under hate crime laws.

Incidents such as the 2005 beatings of two UM students in downtown Missoula because they were perceived as gay and the exclusion of homosexuals from The Christian Legal Society – including UM's chapter – clearly illustrate the need for legal avenues of protection against and retribution from discrimination based on sexuality. These occurrences don't just affect the individuals involved, they reflect on the communities and the state in which they are allowed to happen. In the hearing for SB 223, the hate crime bill, a businessman from Fort Collins, Colo., flew to Helena to testify about the brutal, malicious attack he received in Sidney several years ago when two fellow bar patrons found out he was gay. The case remains unprosecuted. This was the welcome he was given on a two-day business trip to Montana, and I'm sure that – besides to testify – he will not return.

Gay marriage is a bitter pill for many Montanans to swallow. While we are fiercely protective of our constitutional rights, such as the right to bear arms, we remain very socially conservative. Opponents of same-sex marriage argue that there is no provision in the Constitution guaranteeing homosexuals the right to marry. But if we can interpret the right to bear arms as the right to carry concealed weapons without permits within city limits – as was just approved Wednesday – then the argument that the right to privacy and the pursuit of happiness includes freedom

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girls can walk to school without fear of attack by those who don't believe women are entitled to an education. Let's ensure that members of our own communities can walk down the street, have a drink in a bar or spend their lives with the ones they love without fear of discrimination based on their lifestyles, even if some may not agree with them.

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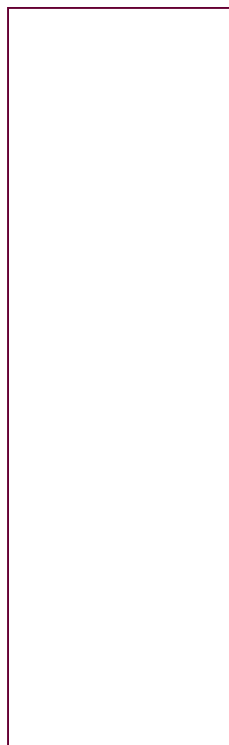
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