

The Honolulu Advertiser

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Grauly



Tom

'Domestic partner' bill still has life

By William Kresnak
Advertiser Capitol Bureau Chief

The Senate will push for a new "domestic partnership" law, even though House members have already said they can't support the idea.

At a hearing tentatively set for Feb. 22, Senate Judiciary Chairman Rey Grauly said his committee will consider a bill to give same-sex and opposite-sex couples the benefits and liabilities of



marriage without being married. Grauly fears that the Hawaii Supreme Court will legalize same-sex marriages if lawmakers fail to act this year. Grauly is proposing a residency requirement, possibly of a year.

Two lawyers, University of Hawaii law professor Jon Van Dyke and Thomas Coleman of the Spectrum Institute of Los Angeles, which supports domestic partnerships, told Grauly's committee Friday they are 95 percent sure the Hawaii Supreme Court will legalize same-sex marriage if the Legislature doesn't create a domestic partnership law.

"If the members of the House heard the same testimony that we heard in the Senate Friday, I think they would reassess their position," Grauly said.

But Grauly's House counterpart, Terrance Tom, countered: "I think we understand it (the arguments) real well."

Tom's committee earlier killed measures to legalize same-sex marriage or create a domestic partnership law.

"I don't think myself or anyone else has a crystal ball, and we can't second-guess what the high court, faced with this issue again, will do," Tom said.

In 1993, the Supreme Court ruled the state needed to show a "compelling state interest" to restrict marriage to opposite-sex couples. It then sent the matter to the Circuit Court for a trial set for July.

Same-sex morass poses a dilemma for Grauly

BY ALAN MATSUOKA
Star-Bulletin

The chairman of the Senate Judiciary Committee says he will decide this weekend whether to hold hearings on a bill that would allow domestic partnerships in Hawaii.

Sen. Rey Grauly said he is convinced the Legislature must take some action to prevent the courts from issuing a ruling that would make same-sex marriage "the law of the land."

Grauly acknowledged that he faces an uphill battle because counterparts in the House last week killed measures to establish either type of relationship.

But he said delaying action until the courts rule would polarize the community and put lawmakers in the position of taking away rights that have been granted.

"I'm hoping that we will be able to find some middle ground, some common ground, with which to deal with the issue of equal rights in our community," he said.

Grauly planned to poll the six other members of his panel before deciding if hearings should be conducted. Two of them — Sens. Richard Matsuura and Whitney Anderson — have indicated they oppose domestic partnerships.

The chairman's comments came yesterday after a University of Hawaii constitutional law professor said at a committee briefing that he is "100 percent" certain the state will not be able to defend its practice of denying marriage licenses to homosexual couples.

The Hawaii Supreme Court

ruled in 1993 that the practice is unconstitutional unless the government can show a compelling state interest. It sent a case involving three same-sex couples back to Circuit Court for a trial, which is scheduled to start in July.

Jon Van Dyke of the William S. Richardson School of Law said the attorney general's office is on weak ground and has no arguments in its favor.

"If this Legislature does nothing, then it is doing something," Van Dyke said. "It is essentially leading to a situation where there will be same-sex marriage."

Thomas F. Coleman, a Los Angeles attorney who specializes in the field, agreed.

"The attorney general, as I say, is shooting with an air gun," Coleman told the committee. "The plaintiffs have a machine gun."

Van Dyke said he is 95 percent certain that passing a domestic partnership bill would make the court case moot since actual injuries would be eliminated.

The couples would get most of the benefits and burdens of marriage, and the government could say it is taking the "least drastic alternative" to grant rights while avoiding the legal complications same-sex marriage would create with other states, he said.

But Dan Foley, the lawyer for the couples, said passage of the bill would only narrow the case and not lead to its dismissal.

"We would applaud the enactment of a domestic partnership as a major step forward in the extension of rights," he said. "But at the same time, it's separate and unequal citizenship."

House Judiciary Chairman Terrance Tom said if the Senate sends a domestic partnership bill to his committee, he would be "apt not to report it out."

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Saturday, February 3, 1996

Grauly panel ponders 'domestic partner' bill

State Senate Judiciary Chairman Rey Grauly said he will poll his committee members over the weekend to see if there is support to consider a proposal for a new "domestic partnership" law.

Grauly's committee heard testimony from lawyers and a health care official on the domestic partnership issue yesterday. He said there is no support in his committee to allow same-sex marriages.

He said he should be able to say Monday whether his committee will take testimony on a bill to create a "domestic partnership" law — which would give the rights of marriage without a couple actually being married — or whether the committee will drop the issue.

Lawyers Jon Van Dyke of the University of Hawaii law school and Thomas Coleman of Los Angeles both testified they believe the Hawaii courts will legalize same-sex marriages unless the Legislature creates a domestic partnership law.

'96
LEGISLATURE

150 people to present views in marathon judiciary hearing

BY ALAN MATSUOKA
Star-Bulletin

More than 150 people gathered at the state Capitol today to testify in another marathon hearing on the politically sensitive same-sex marriage issue.

Representatives for religious organizations and gay-rights groups were among those who appeared at the capitol auditorium for the Senate Judiciary Committee hearing, which began at 9 a.m. and was expected to last well into the afternoon.

The mood as the session began was civil despite the emotions surrounding the issue.

Many of those appearing had testified at earlier hearings, including one conducted by the House last month.

The seven-member committee has before it three proposed bills: One calling for legal recognition of same-sex marriage, another for a constitutional amendment that would prohibit such a relationship, and the third establishing domestic partnerships for gay and lesbian couples.

The committee is scheduled to vote on the bills tomorrow, with the last bill given the highest chance for passage by some parties involved in the issue.

Some 500 letters and copies of testimony had been received.

Among those speaking in favor of the domestic partnership measure today was Thomas F. Coleman, a Los Angeles attorney considered an expert in the area.

Coleman said the bill "is an advancement for civil rights" which attempts to balance constitutional concerns with polls indicating the majority of residents are opposed to same-sex marriage.

But a spokesman for the Roman Catholic Church in Hawaii said traditional marriage needs to be protected and urged putting the proposed constitutional amendment before voters in November.

"This issue is too important to be decided without going directly to the people," said the Rev. Marc Alexander, executive director of the Hawaii Catholic Conference.

"We no vote for any guy who vote for gay marriage or domestic partnership," said one letter.

Judiciary Chairman Rey Grauly earlier said the Legislature should take some action to forestall a court decision that would permit same-sex marriage.

But Rep. Terrance Tom, who heads the House Judiciary Committee, yesterday repeated his feeling that the matter should be left in the courts, saying it is unfair to anticipate a ruling.