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**FEDERAL COURT STRIKES DOWN THE FEDERAL DEFENSE OF
MARRIAGE OF ACT**

Massachusetts Same-Sex Married Couples Entitled to Federal Rights and Protections

BOSTON –Today a federal judge ruled in favor of Massachusetts and struck down the Federal Defense of Marriage Act (DOMA.) Exactly one year ago today, Attorney General Martha Coakley filed a lawsuit in United States District Court (D. Mass.) challenging the Section DOMA. The law, which defines marriage as a union between one man and one woman, unfairly excluded Massachusetts married same-sex couples and their families from critically important rights and protections and interfered with the state’s authority to regulate marriage.

“We are extremely gratified by today’s decision and by the decision in the case brought by the Gay and Lesbian Advocates and Defenders,” said Massachusetts Attorney General Martha Coakley “The court’s ruling affirms basic principles of equality and fairness and confirms that Massachusetts retains the sovereign authority to determine the marital status of its citizens. I think that Judge Tauro put it best when he wrote that DOMA set the Commonwealth on a collision course with the federal government in the field of domestic relations.”

The complaint alleged that DOMA, which affects more than 1,100 federal statutory provisions, violates the United States Constitution by interfering with the Commonwealth’s sovereign authority to define and regulate the marital status of its residents. The complaint also alleged that DOMA exceeds Congress’s authority under the Spending Clause because Congress does not have a valid reason for requiring Massachusetts to treat married same-sex couples differently from all other married couples.

The Commonwealth’s complaint alleged that Section 3 of DOMA unlawfully creates separate and unequal categories of married individuals in Massachusetts, due to the fact that only different-sex married couples are considered married under federal law. Among other things, DOMA prohibits married individuals in same-sex relationships from taking advantage of the ability to file a joint federal tax return, Social Security survivor benefits, guaranteed leave from work to care for sick spouses, flexible spending accounts for medical expenses of spouses, and gift tax and estate tax exemptions for spouses. These rights and protections affect all facets of life from the workplace to healthcare to retirement, and every married person is affected significantly by these laws.

The Attorney General's Office further contends that Section 3 of DOMA unlawfully requires Massachusetts to disregard valid marriages in its implementation of federally funded programs. The complaint focuses specifically on two programs, MassHealth and veterans' cemeteries.

"It is unconstitutional for the federal government to discriminate, as it does because of DOMA's restrictive definition of marriage. It is also unconstitutional for the federal government to decide who is married and to create a system of first- and second-class marriages. The federal government cannot require states, such as Massachusetts, to further the discrimination through federal programs, either. The time has come for this injustice to end."

The complaint specifically highlights two programs in Massachusetts that are impacted by DOMA. The two programs are MassHealth, the Commonwealth's Medicaid program which offers healthcare coverage to low- and moderate-income residents of Massachusetts, and the burial of Massachusetts veterans and their spouses at cemeteries owned and operated by the Massachusetts Department of Veterans' Services (DVS).

DOMA was enacted in 1996 in anticipation of the possibility that Hawaii might license marriages between same-sex couples. Prior to the enactment of DOMA, the federal government honored the marriages recognized by the states for the purposes of any federal program or statute. Section 3 of DOMA created, for the first time, a federal definition of marriage and, with it, a federal limitation on marriage.

In 2004, following the Massachusetts Supreme Judicial Court's decision in *Goodridge v. Department of Public Health*, Massachusetts became the first state to license marriages between individuals in same-sex relationships. Since May 2004, more than 16,000 same-sex couples have been married in Massachusetts.

Currently, five states – Massachusetts, Connecticut, Iowa, Vermont, and New Hampshire and the District of Columbia – permit qualified, committed same-sex couples to obtain marriage licenses. In addition, California continues to honor the marriage licenses that were extended to over 18,000 same-sex couples prior to the passage of Proposition 8. Two other states, New York and Rhode Island, as well as the District of Columbia honor marriages between same-sex couples that are celebrated in Massachusetts. Seven states – California, Nevada, Hawaii, New Jersey, Washington, Wisconsin and Oregon – recognize domestic partnerships or civil unions between same-sex couples. Twenty-nine other states have enacted what are commonly called mini-DOMAs, which ban marriage between couples of the same sex.

This matter is being handled by Maura T. Healey, Chief of Attorney General's Civil Rights Division, and Assistant Attorneys General Jonathan B. Miller and Jessica Lindemann, also of Attorney General Coakley's Civil Rights Division.

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