



NEWS CANADA

Justice minister to review gay marriage law

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OTTAWA - The federal government will look into its same-sex marriage laws to make sure marriages made in Canada can end here, too.

The minister of justice, Rob Nicholson, made the announcement after the storm that followed a report Thursday about a foreign gay couple who came here to tie the knot only to learn they couldn't return their souvenir of Canada.

The lesbian couple from England and Florida travelled to Toronto in 2005 for a wedding ceremony after the definition of marriage was changed in Canada to include gay and lesbian couples, now want a divorce.

But they have been told by a federal lawyer that since their country and state of residences do not recognize same-sex marriage, and since they are not residents of Canada, they were not legally married in the first place. The definition of marriage and the divorce act are federal, but the issuing of marriage licences and the details of divorces are handled by provincial courts, creating a jurisdictional and international legal quandary.

Earlier in Halifax, Harper said his government is not re-opening the same-sex marriage debate.

"When we first came to office we had a vote on this issue. We have no intention of further reopening or opening this issue," Harper told reporters. "I am unaware of the details. This, I gather, is a case before the courts where Canadian lawyers have taken particular positions based on the law, but I will be asking officials to provide me with more details."

One of the complicating issues is that the Divorce Act requires at least one year of residency in Canada in order to be applied, a legal hitch that is now being examined by the justice department.

"This case today involved the fact that, under current law, some marriages performed in Canada could not be nullified in Canada," Nicholson said in a statement. "I will be looking at options to clarify the law so that marriages performed in Canada can be undone in Canada."

The couple's lawyer said the situation is a slap in the face to gay and lesbian couples from other countries.

"It is scandalous," said Martha McCarthy, a long-time advocate of legalizing gay and lesbian marriages. "It is offensive to their dignity and human rights to suggest they weren't married or that they have something that is a nullity."

McCarthy said that while she is encouraged by the considered changes to the law to allow for nullification, international gay and lesbian couples need to be assured that their Canadian marriages are still valid.

"I have been getting calls from Ireland to Israel on this since four in the morning: they need assurance from the government," she said.

McCarthy's surprise is not shared by other divorce lawyers.

"They knew, or ought to have known at the time they got married, having the divorce take place may be questionable and they may not be able to get a divorce," said Andrew Feldstein, who practices family law in Toronto.

Feldstein thinks the argument that the marriages are invalid is immoral and unnecessary, and they should have stuck to residency.

"Where the Harper government should have approached this is: you are not a resident of Canada, you are not a taxpayer in Canada, why should we be using the court's time, money, resources, taxpayers dollars for people who don't live in Canada?"

<http://www.torontosun.com/2012/01/12/foreigners-same-sex-marriages-in-limbo>