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A victory for gay rights

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New York is suddenly a more enlightened place than it was that dreary day just two years ago, when its highest court ruled same-sex couples had no right under state law to marry. Governor Paterson's order that New York recognize gay marriages that take place in other states and countries is a clear and bold step toward providing same-sex couples that right in this state.

For now, hundreds and perhaps thousands of gay men and women will have all the rights, especially regarding government employment and related benefits, that married couples of opposite sexes enjoy. That means, for instance, that Patricia Martinez, who works at Monroe Community College in Rochester, no longer can be denied the health benefits the college offers. Ms. Martinez's marriage to another woman, performed in Canada, is of legal standing here in New York.

Mr. Paterson's decree to that effect is already under fire as some sort of sneaky power play around the Legislature and the legislative process.

Just listen to the Rev. Duane Motley of New Yorkers for Constitutional Freedoms.

"He's circumventing the courts and circumventing the Legislature and setting himself up as a dictator and pandering to a very small interest group," the Rev. Motley says of the governor.

In fact, Mr. Paterson is upholding the law, as it applies to all New Yorkers. His order comes in response to a Feb. 1 ruling by a state Appellate Court in Rochester upholding Ms. Martinez's rights to the health benefits her job provides.

That decision means that if New York wishes to deny those rights and others to Ms. Martinez, or any other married gay person, the Legislature would have to vote explicitly to do so.

That puts the Legislature in a crosshairs of sorts. It can't say it wasn't warned, however. The 2006 Court of Appeals decision against gay marriage makes very specific note of the Legislature's power to expand the rights and benefits of marriage.

Here's Senate Majority Leader Joseph Bruno presenting Mr. Paterson's order as a clash between gubernatorial power and legislative power. Does that mean he plans legislative action to negate the rights a court has upheld and the governor is so serious about protecting?

We ardently hope not. Mr. Paterson's order is as far as he can go. It is best taken as an opportunity for the Senate to pass the same gay marriage bill the state Assembly approved last year.

"Fundamental rights are fundamental rights," Chief Judge Judith Kaye wrote in a powerful dissent to that unfortunate Court of Appeals ruling in 2006. "They are not defined in terms of who is entitled to exercise them."

Now Mr. Paterson has effectively warned others in state government to stop denying those rights to people based on their sexual orientation.

THE ISSUE: New York recognizes same-sex marriages performed in other states and countries.

THE STAKES: How can it ban gay unions here?

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