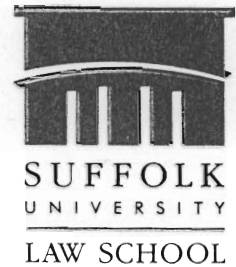


Justice Joseph R. Nolan (Ret)
University Professor
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April 15, 2004

Dear Representative Goguen:

I have reviewed the case of *Goodridge v. Department of Public Health* and believe there are compelling legal reasons for the Supreme Judicial Court (SJC) to issue a stay of their decision authorizing same-sex couples to marry.

In the *Goodridge* case, the SJC ruled that the Commonwealth may not bar same-sex couples from "the protections, benefits, and obligations of civil marriage." The Court did not actually strike the marriage law from our statute books, but left it to the Legislature to act "as they may deem appropriate." Instead of rewriting the laws, the Legislature voted in favor of a proposed constitutional amendment that, if ultimately approved by the voters, would directly contradict the Court's decision. This creates a clear conflict between two of our three coequal branches of government.

The historic action taken by the Legislature in response to the *Goodridge* decision represents a significant change in circumstances in this case. This change in circumstances cannot be ignored. The Executive Branch, through its chief executive, deserves an equal opportunity to be heard in this important matter. The Governor has asked that I assist him as counsel in an effort to request the court to extend its stay in this case, and I have agreed to do so.

Passage of the legislation filed by the Governor today would specifically authorize him to appear before the SJC with counsel of his own choosing, thus allowing the third branch of government to be heard. This is as it should be in our great democratic form of government.

You have taken the first important steps in amending the Constitution. With your support, it is important that we allow this process to continue and thereby preserve the voice of the people and their elected representatives.

Sincerely,

A handwritten signature in black ink that reads "Joseph R. Nolan".

Joseph R. Nolan
Retired Justice
Supreme Judicial Court