



On March 21, 2014, Judge Bernard Friedman of the federal district court for the Eastern District of Michigan struck down Michigan's constitutional ban on same-sex marriage finding that the ban violated the equal protection clause of the U.S. Constitution (decision). The State of Michigan promptly requested a stay of the federal court decision, which the 6th Circuit Court of Appeals has granted through Wednesday.

While this decision does not necessarily seem like an employment issue, there are, of course, employment-related implications. If the district court's decision is upheld, employers in Michigan will need to consider the following issues:

Family and Medical Leave Act. The FMLA allows an employee certain leave rights for the "serious health condition" of a spouse. The FMLA refers to state law for the definition of "spouse." Because Michigan law did not recognize same-sex marriage, employers in Michigan have not been required to provide FMLA leave to same-sex spouses married in other states. If the recent federal court decision is upheld, Michigan employers will be required to provide FMLA coverage to eligible employees with same-sex spouses.

Employment Policies. Employers often maintain employment-related policies that reference spouses. A standard "Bereavement Policy" is one policy that comes to mind. Employers will need to be aware that if the same-sex marriage ban is upheld such policies will now have a broader scope.

Employment Benefits. An employer's written employee benefit plans should include a definition of the term "spouse." Employers will need to review the definition of "spouse" in their plan documents to ensure that the definition is consistent with the law. Employees may also need to review and modify beneficiary forms.

Payroll Taxes. Payroll taxes and tax reporting will also be impacted if the decision is upheld.

We will keep you updated on the status of this case and the employment-related implications.



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