

# THE CAPE COD TIMES

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## Sox skid hits five

Cleveland holds on for a 7-6 win and sends Boston to its fifth straight loss.

Sports /C-1

## TODAY'S WEATHER

Partly cloudy, upper 50s /B-8

44 pages

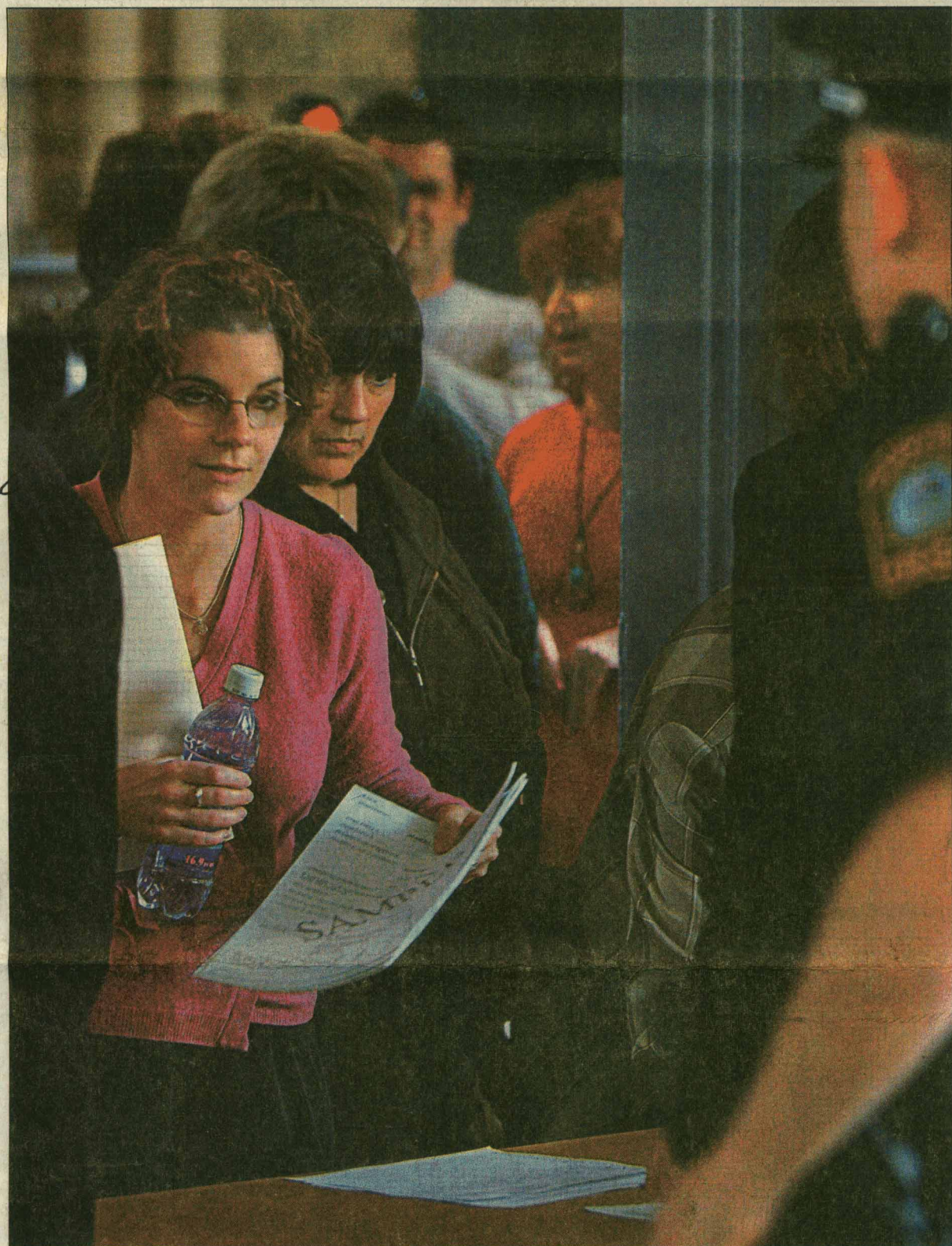
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## GAY MARRIAGE

# Clerks have final call



VINCENT DeWITT/Cape Cod Times

## OUT-OF-STATE COUPLES WHO PLEDGE TO MOVE HERE CAN WED

By ERIC GERSON  
STAFF WRITER

HYANNIS – Same-sex couples who do not live in Massachusetts but who have intentions to move here can marry in the Bay State starting May 17.

During a closed-door training session at Barnstable Town Hall yesterday, members of Gov. Mitt Romney's administration advised about 60 town clerks to request evidence of the couple's intention to move, but said it was not legally necessary.

A sworn affidavit – including the state's revised Notice of Intention Of Marriage form, which now asks about intended residence – would be sufficient. State officials told clerks that "a vague intent to someday have a residence in the state is insufficient," but out-of-state applicants would not have to say exactly when they intend to move.

"There was enough discretion left to clerks so that those who wish to accept just the oath may do so, and those who wish to ask for documents may," said Town Clerks Association President Linda Hutchenrider, the Barnstable town clerk, who hosted the event.

The out-of-state marriage issue has been one of many points debated since the Supreme Judicial Court ruled in November that it was

## INSIDE



KEVIN MINGORA/Cape Cod Times

**Backoffice clatter:** Harwich Town Clerk Anita Doucette is just one of many town clerks who will handle gay-marriage red tape with a typewriter.

A-14

Town clerks line up to receive samples of the new state marriage license yesterday before their training session on gay-marriage procedures at Barnstable Town Hall.

Please see CLERKS /A-14

# Clerks: Protocol set on gay marriage

continued from A-1

unconstitutional to prohibit gays and lesbians from being married.

Romney, who opposes same-sex marriage, had maintained that out-of-state gay couples would not be allowed to marry in Massachusetts. A 1913 law restricts couples from marrying here if the union would be illegal in their home state.

Although the law has not been enforced in the past, Romney and state Attorney General Thomas Reilly believe it provides an impediment to out-of-state couples.

## Potential penalties

But the administration had not said whether an intention to live in Massachusetts would qualify applicants for a license, or what proof they would have to provide.

"That was actually confirmed today," said Provincetown Town Clerk Doug Johnstone. "Those were the type of questions we've had all along."

Several cities and towns, including Provincetown, Brockton and Northampton, have indicated that they would not press couples for proof of residency. Calling it a civil rights issue, Boston Mayor Thomas Menino this week indicated city clerks would be allowed to defy Romney's edict.

Daniel Winslow, Romney's chief legal counsel, warned that clerks who grant licenses to ineligible couples could be subject to legal penalties, though he was not specific.

"We're going to cross that bridge when we come to it," he said. "We hope we never have to."

Winslow and members of the Department of Public Health, which regulates marriage in the state, addressed about 60 clerks during the training session at Barnstable Town Hall. It was the first of five scheduled sessions

across the state.

Town clerks leaving the session yesterday had different ideas of how they would pursue the residency issue.

Plymouth Clerk Laurence Pizer, a former Clerk's Association president, said he would accept a couple's promise, calling it the best possible evidence.

"To me, the oath is the strongest piece of evidence you can get," he said.

## Burden of proof

A property deed, for example, wouldn't necessarily establish where a person lives or intends to live, he said, but only ownership of the property.

Hutchenrider said she would meet with her staff in the coming days to decide what proof of residence and intention of future residence Barnstable would require. An out-of-state resident who had been accepted to a graduate school in Massachusetts might have to show an acceptance letter, for example.

But, she said, "We may very well just take their oath."

The Dennis and Oak Bluffs town clerks said they would probably accept the oath.

Said Dennis Town Clerk Jacquelyn Souza, "They said the oath should cover you. That would be it. That should be all we need."

Deborah Ratcliffe, the Oak Bluffs clerk, said she would ask for identification from all couples, gay and straight. Out-of-state couples would simply have to swear they intend to move to Massachusetts to qualify for a license from her.

Whatever burden of proof clerks impose, they must apply it consistently, Winslow, the governor's counsel, said.

Yet no matter how clerks perform, Winslow said, "I do expect there will be future litigation."

Staff writer Marc Parry contributed to this report.

## Clerks who grant licenses to ineligible couples could be penalized.



VINCENT DeWITT/Cape Cod Times

Daniel Winslow, chief counsel to Gov. Mitt Romney, meets with reporters after yesterday's conference with town clerks in Hyannis.

## QUESTIONS AND ANSWERS

### THE ASSOCIATED PRESS

Here are a few frequently asked questions and answers about the process for gay marriage in Massachusetts:

**Q: Which gay couples will be allowed to marry?**

**A:** In-state couples, couples that include at least one Massachusetts resident, and out-of-state couples who have an immediate intention to live in Massachusetts. For instance, if one has been admitted to a Massachusetts medical school, and swear to that on their Notice of Intention.

**Q: Are there separate forms for same-sex and opposite-sex couples?**

**A:** No. City and town clerks should use the same forms for all couples.

**Q: Can someone who entered a civil union or domestic partnership in another state be married in Massachusetts to another person?**

**A:** Domestic partnerships and civil unions are not legal impediments to marriage in Massachusetts, if the couple otherwise meets the requirements.

**Q: Does a clerk need to see written proof of residence or intent to reside in Massachusetts before issuing a license?**

**A:** The law states a clerk may be satisfied of the residency either by written documentation, such as a phone bill or driver's license, or through sworn affidavit of the applicants.

**Q: If a person does not have to be a resident of Massachusetts to get married here, why should clerks ask for residence and intended residence?**

**A:** State law says couples cannot be married in Massachusetts if such a marriage would be void in the state in which they live. No other state currently recognizes gay marriages.

Source: Gov. Mitt Romney's office.

# Tying the knot? You'll need a typewriter ribbon

By ERIC WILLIAMS  
STAFF WRITER

PROVINCETOWN - Nine typewriters, piled in the town clerk's office like yard-sale castoffs, will soon be key players in Provincetown's matrimonial mania.

"The only things that are certain are birth, death and typewriters," said Provincetown Town Manager Keith Bergman, looking over the outmoded-but-essential ink-smacking devices. "And they're mostly for state forms."

Including marriage licenses.

In an online, on-demand world, most town clerks still operate the old-fashioned way. So come May 17, when gay marriage becomes legal in Massachusetts, the once-mighty typewriter will take center stage, maybe for the last time.

"The state has been developing a new computer program for records," said Linda Hutchenrider, president of the Massachusetts Town Clerks Association and Barnstable town clerk. "But until then, we'll be using typewriters."

Hutchenrider said her office had three sturdy units.

"I haven't bought any for over 10 years," said Hutchenrider. "We haven't had any problems. I'm praying that they hold on long enough."

It's enough to make one think that the impending marital mambo could grind to a halt with a frenzied, mechanical clatter, but Hutchenrider pointed out that in most cases, town clerks have three days to type up the license, allowing for semi-relaxed precision.

Couples intending to tie the knot must first fill out a notice of intention of marriage form, then wait three days before picking up the license. In most communities, couples fill out that form by hand. A couple may appear before a judge to ask for a waiver of the waiting period, but most

*"We'll be fine. Granted they're antiquated. But they're up, they're working."*

LINDA HUTCHENRIDER  
Barnstable town clerk

do not, Hutchenrider said.

But in Provincetown, volunteers and town clerk staff will type up the intention to marry form as well as the marriage license. So in the town that most feel will be deluged by marriage-minded gay couples, typewriter ribbons will be whirring from the get-go.

Town manager Bergman provided a tour of the typewriters and a peek at the town's marriage plan yesterday afternoon, a very busy day at the Cape tip. The town hall oozed democracy and matrimony: upstairs a town election was taking place, downstairs, town clerk staff fielded phone calls on marriage issues.

Bergman said that most of the typewriters had been donated by concerned citizens. He pointed to a chart of the marriage plan that indicated a table of at least four typewriters will be set up on a long table, staffed by volunteers and town employees, ready to go when the time comes. He sized up the stack of veteran IBMs and Smith Coronas, waiting for their last hurrah.

"It looks like a tag sale," he mused. "But it's not about speed, it's about accuracy."

And Barnstable's Hutchenrider thinks that town clerks will be both expedient and accurate during the coming challenge. "We'll be fine," she said. "Granted, they're antiquated. But they're up, they're working and they're all we've got."