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Same-sex couples flood immigration offices for green cards

With the Defense of Marriage Act struck down, gay spouses of U.S. citizens can begin the process of seeking green cards.

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The Supreme Court's overturning of the Defense of Marriage Act means same-sex spouses of U.S. citizens can begin seeking green cards. (Mario Tama, Getty Images / June 27, 2013)



Prop. 8 sponsors ask U.S. Supreme Court to stop same-sex weddings



In San Francisco, a weekend of gay weddings at City Hall

By Alana Semuels
June 29, 2013 1:01:35 p.m.



Kori Kirkbride didn't get that immediate feeling of joy and relief when she heard the Supreme Court had struck down the Defense of Marriage Act.

Instead, it hit after she talked to her attorney, and found out that the court's decision will allow her Polish wife, Kasia Kurzatowska, to apply for a green card, putting an end to a heart-wrenching seven years in which the two have been periodically separated by immigration laws.

"When we sat with our attorney, it became real," said Kirkbride, 40, of Walnut Creek. "Waiting for this decision was like waiting to find out if you are pregnant — your whole life can change if you are. Now, we can have a future and buy a house, and have a child."

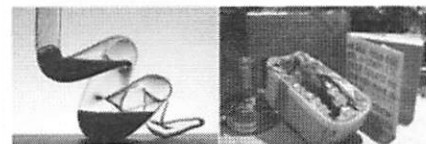
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"Working with our federal partners, including the Department of Justice, we will implement today's decision so that all married couples will be treated equally and fairly in the administration of our immigration laws," she said.

Kurzatowska, 29, who met her future wife while in San Francisco on a basketball scholarship, extended her student visas as long as she could, but had to return to Poland last year. The two kept up their relationship, traveling between the Bay Area and Olsztyn, Poland, for six months, until Kurzatowska was able to get a tourist visa to return to the U.S. The couple married earlier this month in Massachusetts.

Lawmakers have tried to solve the problem without success. Last month, Sen. Patrick J. Leahy (D-Vt.) was forced to withdraw an amendment from the national immigration bill that would have allowed foreign partners in a committed same-sex relationship to become citizens. Republicans had threatened to scuttle the bill if the amendment was not yanked.

Same-sex couples have been flooding Jobson's office since Wednesday with requests for help applying for a green card for a foreign spouse, she said. Kirkbride and Kurzatowska filed their papers Friday.

The process includes filling out forms, getting a medical exam for the spouse applying for the green card, and showing that the foreign spouse won't be a financial burden to the U.S., Jobson said. The foreign spouse also has to prove that he or she entered the country legally.

Then, in about three months, the couple is called in for an interview, in which they have to show that they have a "bona fide" marriage, in that they share finances, insurance or children. If approved, the foreign spouse will soon receive a green card in the mail. After three years, the green card holder can apply for U.S. citizenship, as long as the couple is still married and living together.

Jobson said many of the couples she was working with should have no problems proving their relationships.

"A lot of these people have been together for five, 10, 15 years," she said. "They have almost a lifetime of documents together."

Yet there are still some who will run into immigration issues. Immigrants who entered the country illegally and married a U.S. citizen will not be able to apply for a green card from the U.S. But that is also the policy for heterosexual couples.

New Yorker John McCool was on a plane on the tarmac in London when he heard the Supreme Court had struck down the Defense of Marriage Act. He'd been checking his phone constantly, anxiously awaiting the decision, and when he heard, he dissolved into tears.

"I felt bad for the poor airline stewardess — I just started bawling," said McCool, 32.

McCool's boyfriend, Jean-François Hould, is Canadian and only has a three-year visa to stay in the United States. They had talked of marriage, legal in both New York and Canada, but McCool would not have been able to sponsor Hould for a green card. Now they have more options, said McCool.

"I didn't want to live in a country that didn't recognize my marriage," McCool said. "It's refreshing

Kirkbride and Kurzatowska are among an estimated 26,000 same-sex couples in the U.S. with one partner who is not a U.S. citizen. Under the law, a subset of these couples — those who are married or considering marriage — had been prevented from applying for green cards for their spouses or fiancés.

In the last decade, some of those noncitizens have been deported, even though they were legally married. Many others have been in a legal limbo, with one partner living undocumented in the United States. Some couples have left the country entirely to be somewhere they can both work and live legally.

Now, legally married same-sex couples will be able to apply for green cards for their noncitizen spouses. And U.S. citizens will be able to file fiance visa applications if their future spouse lives in another country and does not have a visa, according to Immigration Equality, a group that works on immigration issues on behalf of lesbian, gay, bisexual and transsexual (LGBT) couples.

"From an LGBT perspective, at this point, immigration is going to be an even playing field," said Cara Jobson, a partner in Wiley and Jobson, a San Francisco immigration law firm.

The U.S. government is working to ensure that couples who qualify will be able to get the process started right away, Janet Napolitano, secretary of the Department of Homeland Security, said after the ruling.

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