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## Domestic-violence law being challenged

**Gay-marriage ban bars prosecution of unmarried couples on felony charge, argument says.**

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COLUMBUS — Ohio's domestic-violence law is facing a constitutional challenge by defense attorneys and cultural conservatives who argue that the law conflicts with the state's two-year-old gay marriage ban.

In a case from Warren County, Michael Carswell says that he shouldn't be charged with felony domestic violence against his girlfriend because state law conflicts with the constitution.

Citizens for Community Values, which led the campaign to pass the gay-marriage ban, filed a brief supporting Carswell.

The ban prohibits state or local government from recognizing a legal status for relationships that approximate marriage.

The domestic-violence law, adopted in 1979, specifically covers "persons living as a spouse."

About 60 domestic-violence cases have challenged the law's constitutionality.

While some appellate courts have rejected this argument, the 2nd and 3rd districts, which include six counties in the Miami Valley and 17 northwest Ohio counties, ruled the domestic-violence law unconstitutional.

The Ohio Supreme Court will hear the Carswell case in December.

Meanwhile, domestic-violence cases involving unmarried partners in the Dayton area are being charged under misdemeanor assault or other laws. Repeat domestic violence is a felony, which carries a longer sentence, and the law lets victims get protective orders.

"The thought that women could die while we're debating is appalling to me," said attorney Alexandria Ruden of Legal Aid Society of Cleveland and co-author of Ohio Domestic Violence Law. "What I hope we will find is the statute is constitutional."

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