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Sizing up the Impact of Obama's DOMA Decision

The Obama administration's decision to no longer back the Defense of Marriage Act isn't going to immediately lead to a lot of change for same-sex couples.

But the decision, which is freighted with symbolic meaning, is already shaping battles in the courts and in Congress that could affect a range of government policies, [write](#) the WSJ's Geoffrey Fowler and Evan Perez on Friday. Click [here](#) and [here](#) for earlier posts on the administration's decision.



Attorney General Eric Holder on Wednesday said the Justice Department would stop defending the law, known as DOMA, which defines marriage as the union of a man and woman. But Holder, in a letter to House Speaker John Boehner, said federal agencies would continue to abide by the act.

Still, write Fowler and Perez, the move "will have a very significant impact because it is easier for the courts to say 'we think this law is unconstitutional' if another branch is already saying that," said Jon Davidson, the legal director of Lambda Legal, one of the groups that has challenged the law in court.

The next move could be in the hands of Congress, which could defend the law itself in ongoing legal challenges in states including Connecticut, New York and Massachusetts. On Thursday, Boehner's office had no comment about whether the Ohio Republican would get involved in the legal fights.

Brian Brown, president of the National Organization for Marriage, which opposes same-sex marriage, said his group had already been meeting with members of Congress to ask them to intervene in the DOMA legal challenges.

Beyond legal challenges, U.S. lawmakers could take up DOMA directly. Some Democrats have already indicated they planned to challenge the law. Sen. Dianne Feinstein of California said in a statement she intended to introduce legislation that "will once and for all repeal" the 1996 law.

Linda McClain, a family-law professor at Boston University who has followed the gay marriage issue, said Holder's legal language, citing discrimination against gays and lesbians, signals a major change in federal policy even if the practical effects await court rulings.

"This type of development is moving toward a national policy against sexual orientation discrimination," she said, noting that until recent years the courts had generally accepted a certain amount of discrimination against gays that wasn't allowed against other groups.