

**PROPOSED RESOLUTION FOR THE NEW YORK STATE BAR  
ASSOCIATION**

**Enactment of Legislation to Provide Equal Marriage Rights for  
Same-Sex Couples Wishing to Marry under New York Law**

**WHEREAS**, the House of Delegates adopted a resolution on January 24, 2003 providing for the appointment of a Special Committee to study legal issues affecting same-sex couples and directing it "to explore legislative or private legal solutions to the problems raised by the Association of the Bar of the City of New York report [entitled "Marriage Rights of Same-Sex Couples in New York"]...and report back to the House of Delegates with concrete recommendations;

**WHEREAS**, the Special Committee on Legal Issues Affecting Same-Sex Couples issued its report to the Association in 2004, which identified numerous instances of disparate treatment of same-sex couples under the law and recommending that legislation be enacted to afford same-sex couples the ability to obtain the comprehensive set of rights and responsibilities now afforded opposite-sex couples;

**WHEREAS**, on April 2, 2005, the House of Delegates endorsed the recommendation of the Special Committee and resolved that "the New York State Legislature should enact legislation that will afford same-sex couples the ability to obtain the comprehensive set of rights and responsibilities now afforded opposite-sex couples...in the form of a statute creating a domestic partnership registry, a civil union, statute, or an amendment to the statutory definition of marriage to include same-sex couples";

**WHEREAS**, since the 2005 resolution of the House of Delegates, there have been significant legal developments with respect to same-sex marriage, civil unions and domestic partnerships, including without limitation, the adoption of same-sex marriage by five states and five foreign jurisdictions, several of which border New York State; and

**WHEREAS**, since the 2005 resolution, the marriages of same-sex couples whose marriages were performed outside of the State have been recognized within the State under, inter alia, the recent decision in *Martinez v. Monroe County*, 850 N.Y.S.2d 740 (4<sup>th</sup> Dep't 2008);

**WHEREAS**, since the 2005 resolution, several other states that have instituted domestic partnership or civil union laws have determined that these statuses confer inferior statuses than does marriage, lead to confusion, and do not offer equal legal rights to same sex couples and families;

**WHEREAS**, on June 19, 2007, with a bi-partisan vote of 85 to 61, the New York State Assembly passed Assembly Bill 8590, which provides for an amendment to the Domestic Relations Law to provide equal treatment relating to marriage regardless of

whether the parties to the marriage are of the same or opposite sex, but the bill did not pass in the State Senate; and

**WHEREAS**, on or about April 2009, the Governor of the State of New York introduced a bill to the Legislature to enact marriage equality for same-sex couples;

**WHEREAS**, in April, 2009, the Special Committee on LGBT People and the Law issued its Report and Recommendation on Marriage Rights for Same Sex Couples documenting recent developments in New York, nationally, and internationally on marriage rights for same-sex couples, which reveal numerous reasons why providing same-sex couples with access to marriage is the only viable way to establish marriage equality;

**NOW THEREFORE**, be it

**RESOLVED** that the Association hereby endorses and supports the introduction and enactment of legislation that amends the Domestic Relations Law to allow same-sex couples to marry and to recognize marriages if contracted elsewhere as the Association believe only marriage can grant full equality to same-sex couples and families; and that such legislation shall exempt clergy from the obligation to perform any marriage to which they object on religious grounds.

**FURTHER RESOLVED**, that to the extent it is inconsistent with this resolution, the motion adopted by the House of Delegates on April 2, 2005 with respect to the report of the Special Committee to Study Issues Affecting Same-Sex Couples is hereby rescinded and is replaced by this resolution; and it is

**FURTHER RESOLVED**, that the officers of the New York State Bar Association are hereby authorized to transmit this Resolution to the New York State Legislature and are directed to take such action as is appropriate to support and advance this Resolution.

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**Deleted: ;** and the Association does not endorse and will oppose any legislation which purports to enact civil unions, domestic partnerships, or create any status other than marriage to same-sex couples; and it is