

# The Association of Politically Active Christians

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## **SAME-SEX “MARRIAGE” IN NEW YORK: HISTORY AND CURRENT STATUS**

**February 2010**

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The issue of same-sex “marriage” burst upon the public’s consciousness in New York State in 2004, when the then-mayor of New Paltz made headlines by unlawfully marrying 25 same-sex couples. Thereafter, advocates of same-sex “marriage” brought multiple lawsuits against New York State, claiming that it was unconstitutional for the state to define marriage as the union of one woman and one man. The Court of Appeals, New York’s highest state court, dismissed those lawsuits in July 2006 in the case of *Hernandez v. Robles*, 7 N.Y.3d 338 (2006) ([http://www2.law.columbia.edu/faculty\\_franke/Gender\\_Justice/Hernandez\\_Robles.pdf](http://www2.law.columbia.edu/faculty_franke/Gender_Justice/Hernandez_Robles.pdf)). In *Hernandez*, the Court held that New York’s opposite-sex definition of civil marriage did not offend the Constitution. The Court found that there is no fundamental right to same-sex “marriage,” and that it was not irrational for the state to limit marriage to one man and one woman.

After the *Hernandez* decision was issued, the Empire State Pride Agenda—New York’s largest homosexual lobbying group—announced that it would launch an initiative to pass same-sex “marriage” legislation. In October 2006, gubernatorial candidate Eliot Spitzer promised advocates of same-sex “marriage” that he would introduce a same-sex “marriage” bill if he were to become governor. Spitzer was then elected governor in a landslide on Election Day 2006. In early 2007, APAC joined with pro-family organizations across New York State to form the Coalition to Save Marriage in New York.

Upon being elected Governor of New York, Eliot Spitzer made good on his campaign promise by introducing a same-sex “marriage” bill in the spring of 2007. On June 19, 2007, the New York State Assembly passed that same-sex “marriage” bill by a vote of 85-61. Despite intense pressure from advocates of same-sex “marriage,” the New York State Senate—then under Republican leadership—did not schedule a floor vote on the legislation. While a “compromise” measure (civil unions) was seriously considered during the 2007 session, the Senate did not take up such a measure; the Coalition and other pro-family organizations actively lobbied the Republican Senate majority against civil unions. At the end of 2007, the same-sex “marriage” bill died in the State Senate and was returned to the State Assembly. This was a major victory for the pro-family cause.

On March 17, 2008, Eliot Spitzer resigned as Governor amidst a nationally-publicized scandal, and Lieutenant Governor David Paterson was sworn in as Governor of New York. Neither same-sex “marriage” legislation nor civil union legislation was voted upon in the Assembly or the Senate in 2008. However, the effort to promote same-sex “marriage” continued to rage in New York throughout that year, as Governor Paterson quickly demonstrated his enthusiastic support for the proposal.

On February 1, 2008, prior to Eliot Spitzer's resignation, the Appellate Division, Fourth Department—an intermediate appeals court—issued a decision entitled *Martinez v. County of Monroe*, 50 A.D. 3d 189. In *Martinez*, the Court held that a community college was required to recognize a same-sex “marriage” license validly obtained in Canada. The decision was criticized because it usurped the authority of the legislature to define the institution of marriage and because it arguably contradicted the Court of Appeals' 2006 decision in *Hernandez v. Robles*. Monroe County appealed the *Martinez* decision. Despite the legal briefs filed by pro-family organizations in support of that appeal, the appeal was dismissed by the New York Court of Appeals on May 6, 2008 due to a technicality. The *Martinez* decision is binding upon the trial courts of New York State, and will remain binding unless and until the Court of Appeals overturns *Martinez* or another Department of the Appellate Division issues a contrary ruling.

In May 2008, Governor Paterson issued a directive requiring that New York State agencies recognize same-sex “marriage” licenses legally obtained in other jurisdictions. Governor Paterson claimed that the *Martinez* decision provided a legal basis for this directive. Pro-family groups took the view that Governor Paterson had overstepped his bounds in issuing this directive. Governor Paterson reportedly described same-sex “marriage” as “beautiful,” and contended that his decision was “the right thing to do”; the governor was enthusiastically cheered when he attended the 2008 gay pride parade in Manhattan. On June 3, 2008, the Alliance Defense Fund filed a lawsuit entitled *Golden v. Paterson* on behalf of several pro-family state legislators and others—including APAC leadership—to challenge the governor's directive as unconstitutional. On September 2, 2008, a trial court upheld the governor's directive.

On Election Day 2008, the Democratic Party won a slender, two-vote majority in the New York State Senate. This reversal was a significant one, as the Republican Senate majority had previously blocked efforts to redefine marriage.

Governor Paterson introduced same-sex “marriage” legislation on April 16, 2009, and the Assembly passed it on May 12, 2009. Thereafter, same-sex “marriage” advocates launched an all-out lobbying and media blitz in an effort to push the bill through the Senate before its regularly-scheduled session ended in June 2009. The pro-family community rose to the challenge. On May 17, 2009, Senator Ruben Diaz (D-Bronx), Radio Vision Cristiana International, and the New York Hispanic Clergy Organization held a massive rally in support of authentic marriage in front of Governor Paterson's New York City office; the rally was attended by 10,000-20,000 people. On May 28, 2009, the National Organization for Marriage kicked off a New York campaign involving television and radio advertising as well as robocalls to over 1.4 million New York households in 25 State Senate districts. On June 9, 2009, New Yorkers for Constitutional Freedoms held a “Stand 4 Marriage” rally on the steps of the New York State Capitol; at the rally, Conservative Party Chairman Michael R. Long declared that legislators who voted for same-sex “marriage” would lose the Conservative Party's endorsement. On June 16, 2009, the National Organization for Marriage announced the formation of NOM PAC New York, a new political action committee to support the cause of authentic marriage.

Efforts to bring same-sex “marriage” legislation to a floor vote during the regular 2009 legislative session were thwarted on June 8, 2009, when two Democratic senators joined the Republicans in a parliamentary coup. While the issue of same-sex “marriage” did not cause the coup to occur, the coup made it impossible for advocates to achieve their goal of a Senate floor vote on same-sex “marriage.” For over a month, the Senate could not conduct business or pass

legislation due to ongoing disputes over the legal and political ramifications of the coup. Eventually, both dissident senators returned to the Democratic conference, and the Senate resumed its activities on July 9; however, same-sex “marriage” legislation was not brought to the Senate floor at that time.

A special congressional election held in New York’s 23<sup>rd</sup> Congressional District in the fall of 2009 had a major impact on the fate of same-sex “marriage” in New York. The election was unusual because the Conservative Party endorsed its own candidate, Doug Hoffman, rather than endorsing either of the major party candidates (Democrat Bill Owens and Republican Dede Scozzafava). The Conservative Party objected to Scozzafava’s candidacy for a variety of reasons, including her previous votes in favor of same-sex “marriage” as a member of the New York State Assembly. After pro-family organizations across the nation campaigned for Hoffman, Scozzafava—facing rapidly declining poll numbers—suspended her campaign. While Owens went on to narrowly defeat Hoffman, many observers took the view that Scozzafava’s fate would discourage New York’s elected officials (especially Republicans) from voting for same-sex “marriage” in the future; this phenomenon became known as “the Dede effect.”

Later in 2009, advocates of same-sex “marriage” demanded that Senate leadership bring same-sex “marriage” legislation to a vote. The Senate leadership acquiesced, and a floor vote occurred on December 2, 2009. After intense lobbying by New Yorkers for Constitutional Freedoms and the New York State Catholic Conference, and after a lengthy debate in which only one senator (Sen. Ruben Diaz) spoke against same-sex “marriage,” the New York State Senate voted against same-sex “marriage” by a margin of 38 to 24. All 30 Senate Republicans voted against same-sex “marriage,” and they were joined by eight Democrats—one-quarter of the Senate Democratic conference. This victory stunned same-sex “marriage” advocates and members of the mainstream media. Given the reluctance of New York’s elected officials to vote on controversial bills in election years, observers consider it highly unlikely that the Senate will take up the bill again until at least 2011.

APAC thanks the Lord for His answers to the prayers of His people in regard to same-sex “marriage” in New York and looks forward to continued victories on this issue. APAC also encourages all New Yorkers to thank those legislators who have stood for authentic marriage, and to respectfully express disagreement with those legislators who have not.