

Lawyers hope to push for repeal of adoption ban

Florida only state with a complete ban

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Family law attorneys want to get rid of Florida's ban on gay adoptions. By unanimous vote, the executive council of the Family Law Section of the Florida Bar has decided to push for a repeal.

"Fundamental fairness demands that healthy parents should be allowed to adopt regardless," said Evan Marks, a Miami attorney who became chairman of the section last month.

"Congratulations to the Family Law section of the Florida Bar for taking a stance in favor of Florida's children and against discrimination," said Elizabeth Schwartz, a Miami Beach attorney. "I hope it makes a difference to the legislature when it considers doing the right thing to repeal this arcane statute. Florida's family lawyers join an impressive group of mainstream organizations urging the only state banning an individual gay person from adopting to reconsider its stance."

The law, which was passed in 1977, has survived three state court challenges. Most recently, a Miami federal judge dismissed a lawsuit by four gay men seeking to adopt their foster children and in January the 11th U.S. Circuit Court of Appeals ruled against the men.

The federal appeals court said the issue was one that should be decided in the Legislature.

Two years ago, nearly two dozen state lawmakers filed a friend-of-the-court brief in the federal lawsuit, defending the right of the Legislature to ban gay adoptions in order to "further the public moral sense." A bill filed in the state Senate this spring to repeal the ban went nowhere.

And Mathew Staver, president of the virulently anti-gay, conservative legal group Liberty Counsel, said last week he would "vigorously oppose repealing the law."

Staver said it's irrefutable that children do best when they are raised by a mother and father.

"We should not experiment with the future of children by creating a policy that undermines children being raised by a mom and dad," he said.

Staver also said several states have banned adoptions by gays. A handful of others have allowed them but most are silent on the issue, he said.

Two states — Mississippi and Utah — prohibit only gay couples from adopting. Alabama's Supreme Court recently ruled against gay adop-

tions.

In Florida, before the Family Law Section can press lawmakers to repeal the ban on gay adoptions it needs approval from the Board of Governors of the Florida Bar.

Membership in the Bar is a requirement to practice law in the state. So the key issue the 52-member Board of Governors will consider later this summer is whether allowing the Family Law Section to push for repeal of the ban is divisive in the legal community.

About 4,200 lawyers belong to the section, which is governed by an executive council of about three dozen attorneys.

Just five months ago, the executive council voted 17-7 against repealing the ban based on the argument that pushing for a repeal would be divisive.

"I thought that was absolutely ridiculous," Marks said.

When he became chair of the section in June, he brought the issue up again.

"It's one of those cutting edge issues in family law and it was one of those things that needed to be addressed," Marks said.

He told the section that the theme of his one-year term would be "fundamental fairness for Florida families."

A dozen mainstream groups, such as the American Medical Association, the American



Elizabeth Schwartz

Bar Association and the American Psychiatric Association have all come out in support of allowing gay people to adopt.

"Once these groups got on board it had a snowball effect," Marks said.

The Florida Bar Board of Governors rejected the idea of pushing for repeal in 1991, deciding it would be too divisive an issue in the legal community. But

Marks said he's optimistic that the board would approve the position now.

"Fortunately people have become more enlightened," he said.

But the fate of the idea in the Legislature — "that is a different story," he said.

Orlando attorney Richard West, a former chairman of the Family Law section, also thinks it will be an uphill battle to repeal the ban.

"We have grave reservations that it will ever get through that far but we feel it is important to try," West said.

Jack Levine, a longtime child advocate, said it's discriminatory to say gay parents cannot be good parents.

"The reality is that we have no evidence to show, either scientific or sociological ... that gay couples cannot be positive parents," Levine said. "We actually have a lot of evidence to show that heterosexuality does not make for, by definition, good parenting."