



## **Section Recommendation Adopted by ABA House**

At its mid year meeting in San Antonio, the ABA House of Delegates passed a recommendation co sponsored by the Section of Family Law and the Section of Individual Rights and Responsibilities.

The recommendation, 103D, was passed by the ABA House on February 9, 2004 and now becomes ABA policy.

Section of Family Law delegate to the ABA House Timothy Walker noted that the measure was not offered as a precursor to the ABA taking a position on whether same-sex marriage is a constitutional right.

"This is not a resolution about same-sex marriage. It's about states' rights," Walker said. He added that states are already exempted under the federal Defense of Marriage Act from being required to afford full faith and credit to marriages entered into in other jurisdictions, though most states do recognize such marriages.

The resolution, as adopted, states:

"Resolved, that to preserve the authority of the states and territories to regulate marriage under our federal system, the American Bar Association opposes any federal enactment that would restrict the ability of a state or territory to prescribe the qualifications for civil marriage between two persons within its jurisdiction

After its adoption by the House of Delegates, the ABA released the following statement to the press:

The American Bar Association today adopted policy opposing any federal encroachment into the right of states to determine the definition of civil marriage and when to recognize a civil marriage entered into under the laws of another state.

Following the vote, ABA President Dennis Archer noted that two states – Ohio and Massachusetts – have recently taken dramatically different positions and that other states might also want to take different positions, and said that the federal government should let the states make their own decisions on the matter. The association did not take a position on whether states should or should not allow civil marriage between same-sex couples.