

Update on State-Level Same-Sex Marriage Action

(compiled by the Senate Republican Policy Committee)
as of August 10, 2004

The chart that follows describes three kinds of developments in the states — legislation moving through the statehouses, ballot initiatives, and pending litigation. It now also contains any state-specific polling that has been done on the subject.

Important Updates:

Washington — A state trial court judge has ruled that Washington must issue licenses to same-sex couples in Washington. The judge expressly relied on the U.S. Supreme Court's decision in *Lawrence v. Texas*. The judge stayed his order until a higher court can review it. Another lawsuit is currently pending in Washington state court — a claim seeking interstate recognition of a marriage license issued in Oregon.

Missouri — On August 3, nearly 71% of Missouri voters approved a state constitutional amendment to define and protect marriage as between a man and a woman. Note that more Democrats than Republicans came to the polls in this primary election due to a contested Democrat primary for Governor.

North Dakota — Proponents of a ballot initiative to create a constitutional amendment to protect traditional marriage submitted more than enough signatures to place the measure on November ballot.

Ohio — Marriage defenders submitted 400,000 signatures aimed at placing a state constitutional amendment on the fall ballot, more than the 322,000 needed. Organizers are concerned, however, that same-sex marriage advocates will tie up the ballot initiative in court despite the outpouring of public support.

Florida — A pro-traditional marriage group, Liberty Counsel, has filed lawsuits in seven Florida counties asking the courts to rule immediately upon the constitutionality of the Florida state DOMA and its current reservation of civil marriage to man-woman unions.

Overall highlights:

11 states are facing court challenges to their marriage laws. Same-sex couples are currently challenging the marriage laws of California, Florida, Indiana, Maryland, Nebraska, New Jersey, New Mexico, New York, Oregon, Washington, and West Virginia. In addition, lawsuits have been filed in Alaska and Montana to force the state to grant marital benefits to same-sex couples.

DOMA is being challenged in 3 different federal courts. A federal bankruptcy court in Washington state is reviewing a direct challenge to the Defense of Marriage Act, as are two separate federal courts in Florida.

At least 12 more states expect to have state constitutional amendments on 2004 ballot. State constitutional amendments protecting traditional marriage are expected to appear on the November ballots in Arkansas, Georgia, Kentucky, Michigan, Mississippi, Montana, North Dakota, Ohio, Oklahoma, Oregon, and Utah. Louisiana will have an initiative on the September ballot. (In some states final approval of the signatures is still pending.) Missouri voters approved a pro-traditional marriage constitutional amendment on August 4.

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Alabama	<p>1998 — Passed state law defining marriage as man-woman and refusing recognition to inconsistent out-of-state marriages. 1998 Alabama Laws Act 98-500.</p> <p>2004 — Proposal to amend state constitution to protect traditional marriage passed state Senate 24-1 on April 15. It never received a vote in the state House and the legislative session expired. [updated 5/19/04]</p>	<p>None expected.</p> <p>(see 2004 item to left)</p>	<p><i>Case recently dismissed.</i> Two men in an Alabama state prison sued the state for the right to marry each other, saying they had a federal constitutional right to marry. A state court dismissed the lawsuit in April 2004. [updated 4/22]</p>	<p>March 2004 – Nearly 80% of respondents oppose SSM; only 50% support civil unions. See AP State and Local Wire, Dateline: Mobile, Alabama, 3/15/2004.</p>
Alaska	<p>1998 — Alaska voters passed a state constitutional amendment defining marriage as man-woman. It is because of this state constitutional DOMA that the ACLU has crafted their case around “benefits” instead of marriage itself. [updated 4/22]</p>	<p>None expected</p> <p>(Constitutional amendment already passed by ballot initiative in 1998.)</p>	<p><i>Case pending in state supreme court.</i> The ACLU has sued to prevent Alaska from granting benefits to married couples if the state does not provide the same benefits to same-sex “couples.” This case has been argued in the Alaska Supreme Court and could be decided any day. [updated 4/22]</p>	<p>No apparent polling data.</p>

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<p>Arizona</p>	<p>1996 — Legislature passed state law barring same-sex marriage.</p> <p>2004 — State constitutional amendment introduced in state legislature.</p> <p>2004 — State House passed nonbinding resolution calling on Congress to send to states a federal marriage amendment. Resolution pending in state Senate. [updated 5/3]</p>	<p>None expected</p> <p>No effort to collect signatures currently underway given resources needed to place constitutional amendment on statewide ballot; organizers would need approximately 184,000 signatures by July 1.</p>	<p><i>State supreme court refuses to hear case.</i></p> <p>Two men were denied a marriage license and sued in state court. They lost in district court and on their first appeal. Curiously, gay rights groups tried to talk them out of pursuing their case because it interfered with the groups' national litigation strategy. On May 25, 2004, the Arizona Supreme Court refused to hear their appeal, which <i>should</i> bring this particular litigation to an end. [updated 5/26]</p>	<p>March 2004 – 60% oppose SSM; however, 54% say they oppose amending the Constitution. See <i>Tucson Citizen</i> 3/20/2004. Poll by Social Research Laboratory at Northern Arizona University.</p>
<p>Arkansas</p>	<p>1998 — Legislature passed state law barring same-sex marriage.</p> <p>[updated 5/4]</p>	<p>Will be on November ballot.</p> <p>Ballot initiative approved. Amendment would define marriage as man-woman, bar civil unions, and bar recognition of same-sex marriage or civil unions from other states. The state must verify enough signatures before the amendment is officially placed on the ballot. [updated 7/22]</p>		<p>No apparent polling data.</p>

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California	<p>2000 — Voters passed Prop. 22, a statewide ballot initiative, with 60% of the vote. Prop. 22 defines marriage in California as only man-woman.</p> <p>2003 — The California legislature passed a law in October 2003 to create same-sex “domestic partnerships” that gave many (but not all) of the rights and benefits of marriage to same-sex couples. Then-Governor Davis signed the law.</p> <p>2004 — Legislature passed resolution opposing federal marriage amendment. [updated 6/25]</p>	<p>None expected, but possible.</p> <p>Voters have power to place constitutional amendment protecting marriage on ballot in November 2004 by collecting signatures amounting to 8% of votes cast for governor in last election. [Unclear if Oct. 2003 recall election counts.]</p> <p>No effort to collect signatures currently underway.</p>	<p><i>Case pending in state supreme court.</i> San Francisco’s mayor defied state law and began issuing marriage licenses to same-sex couples in February 2004. The state refused to register the marriages. Same-sex couples from 46 states received licenses while San Francisco was issuing licenses.</p> <p>Several lawsuits were filed to challenge San Francisco’s action and are now consolidated in the California Supreme Court. The state of California is defending its traditional marriage laws and the statewide initiative (Prop. 22) that passed with 60% of the vote in 2000. [updated 4/26]</p>	<p>June 2004 — 53% oppose SSM; just 41% support a constitutional amendment to define marriage as man-woman. See SF Chronicle, 6/4/2004</p>
Colorado	<p>2000 — Legislature enacted state law defining marriage as man-woman.</p> <p>2004 — The state House voted 38-27 to <u>not</u> vote on a resolution calling on Congress to pass the Federal Marriage Amendment. [updated 4/27]</p>	<p>None expected</p> <p>Deadline for statewide ballot initiative process appears to have passed.</p>		<p>Dec. 15-16, 2003 – 47% oppose Musgrave’s amendment; 43% support it. 59% support civil unions. Poll by Public Opinion Strategies of Rocky Mtn. News./KCNC-TV. See AP Denver article 12/29/03.</p>

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Connecticut	<p>State law provides that “the current public policy of the state of Connecticut is now limited to a marriage between a man and a woman.” Conn. Stat., ch. 803, § 45a-727a (sub (4)).</p> <p>2004 — Bill introduced to allow same-sex couples to marry (HBO 3069). [updated 5/20]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p>		<p>April 2004 – 49% support SSM; 46% oppose SSM. 53% said they opposed passing a law to define marriage as being between a man and woman. 53% also said they think SSM should <i>not</i> be viewed the same as marriage between a man and woman. See AP article Storrs, Conn. 4/6/04. Poll by UCONN.</p>
Delaware	<p>1996 — Legislature enacted state law defining marriage as man-woman.</p> <p>2004 — State constitutional amendment introduced in state legislature in March 2004, but state Senate President said he will stop measure from coming to a vote (SB 246). [updated 5/4]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. However, the legislature could send to the voters a state constitutional amendment for their approval. (See item to the left.)</p>		<p>No apparent polling data.</p>

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<p>Florida</p>	<p>1997 — Legislature enacted state law defining marriage as man-woman.</p> <p>[updated 5/5]</p>	<p>None.</p> <p>(Voters had the ability to amend state constitution by statewide initiative on the November 2004 ballot if approximately 489,000 signatures were gathered by August 3, 2004, but no effort to collect signatures ever materialized.)</p>	<p><i>Two federal court challenge to federal DOMA.</i> A private attorney has filed two lawsuits in federal court, each of which challenges the constitutionality of DOMA.</p> <p><i>Two separate cases pending in state trial court.</i> Two cases have been filed in state trial court challenging Florida’s traditional marriage laws. The first case is a class action filed in Broward County by a private attorney. The latter was filed in Key West by the National Center for Lesbian Rights.</p> <p>The Orlando newspaper summarizes the litigation strategy below:</p> <p>“[Plaintiff’s attorney] Rubin has filed similar challenges with clerk of courts in Palm Beach, Hillsborough and Orange counties and federal lawsuits in Miami and Tampa. He said he intends to file two more federal lawsuits in Tallahassee and Tampa and three more state court cases in Lee, Leon and Miami-Dade counties.”</p> <p>In addition, a pro-traditional marriage group, Liberty Counsel, has filed lawsuits in seven Florida counties asking the courts to rule immediately upon he constitutionality of the Florida state DOMA and its current reservation of civil marriage to man-woman unions.</p> <p>[updated 8/6]</p>	<p>Feb. 18-22, 2004 – 54% support U.S. constitutional amendment to prohibit gay men and women from marrying. 40% oppose. See <i>Florida Times-Union</i> (Jacksonville) 3/1/04</p>

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Georgia	<p>1996 — Legislature enacted state law defining marriage as man-woman.</p> <p>2004 — Legislature approved a state constitutional amendment defining marriage as man-woman. Measure will be on November 2004 ballot. The legislature approved the amendment only after heavy public pressure, especially from African American religious leaders. [updated 5/5]</p>	<p>On ballot</p> <p>State constitutional amendment will appear on November 2004 ballot.</p>	<p><i>Case seeking recognition of Vermont civil union rejected by Georgia state court. In Burns v. Burns, 560 S.E.2d 47 (Ga. App. 2002), a party sought to have a Vermont civil union treated as a “legal marriage” in Georgia. The trial court and court of appeals refused to treat a Vermont civil union as a marriage, and the Georgia Supreme Court declined to review the case.</i></p>	<p>August 2003 – 62% of Georgians would oppose a law that would allow homosexual couples to legally form civil unions, giving them some of the rights of married couples. 30% would support it. Poll by <i>Atlanta-Journal Constitution</i> and Zogby.</p>
Hawaii	<p>1998 — A constitutional amendment was approved that reserved to the legislature the power to define marriage. The legislature subsequently defined marriage as man-woman. [updated 5/3]</p>	<p>None expected</p> <p>(Passed constitutional amendment in 1998.)</p>		<p>No apparent polling data.</p>

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Idaho	<p>1996 — Legislature passed a state law stating that same-sex marriage violated the public policy of Idaho.</p> <p>2004 — State House passed a constitutional amendment defining marriage as man-woman, but state Senate failed to act. [updated 5/4]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. Legislature has adjourned for year without referring amendment to ballot. (See item to the left.)</p>		<p>No apparent polling data.</p>
Illinois	<p>1996 — Legislature passed a state law defining marriage as man-woman.</p> <p>2004 — At least four state constitutional amendments are pending in state House and Senate committees, but are expected to remain stalled there. [updated 5/4]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p>		<p>March 2004 – 60% oppose legalizing gay marriage; 27% support it; 53% oppose a U.S. constitutional amendment; 34% support an amendment. See <i>The State Journal-Register</i> (Springfield, IL) 4/15/04.</p>

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Indiana	<p>1997 — Legislature passed a state law defining marriage as man-woman.</p> <p>2004 — A state constitutional amendment was proposed and passed the state Senate, but state House Democrats refused to permit the measure to a vote and the legislature adjourned on March 4, 2004, without approving the constitutional amendment. [updated 4/27]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. The legislature adjourned without sending an amendment to the ballot. (See item to the left.)</p>	<p><i>Case pending in Indiana Court of Appeals.</i> Three same-sex couples sued in Marion County Superior Court for the right to marry under the state constitution. The case was dismissed, and is now on appeal to the intermediate state appeals court. The case is called <i>Morrison v. Sadler</i>.</p>	<p>May 13-19, 2004 – 19% of state’s adults support SSM; 46% oppose all legal recognition (civil unions or SSM). Poll by Indianapolis Star WTHR. See <i>Indianapolis Star</i> article 5/24/2004.</p>

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Iowa	<p>1998 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — State Senate voted down a state constitutional amendment barring same-sex marriage. Still pending is a state law that would bar civil union-like arrangements.</p> <p>[updated 4/27]</p>	<p>Possible</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. However, the legislature could send to the voters a state constitutional amendment for their approval. (See item to the left.)</p>	<p><i>Same-Sex Divorce Case Dismissed.</i> Two women entered into a civil union in Vermont and later asked an Iowa trial court to grant them a divorce. In December 2003, the Iowa court initially granted the divorce, but after his action was challenged (because Iowa does not recognize same-sex marriage or Vermont civil unions), the judge reworked the order dividing the couple's property so that the civil union was not recognized.</p>	<p>Des Moines Register Poll (July 17-21). Article dated August 9, 2004, reports:</p> <p>« Just 25 percent of the state's adults favor lifting Iowa's ban on same-sex marriages. They are vastly outnumbered by the 65 percent who say they are opposed to legalizing marriage for gay and lesbian couples. Ten percent are unsure.</p> <p>***</p> <p>Iowans overall are much less supportive of a constitutional ban.</p> <p>Opponents of a constitutional amendment outnumber backers, 49 percent to 43 percent. The rest are unsure. »</p>

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Kansas	<p>1996 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — State constitutional amendment was passed out of the state Senate but could not gain the 2/3 support needed in the state House to be placed on the November ballot. [updated 5/4]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. Any ballot initiative must be referred by the legislature. (See item to the left.)</p>		<p>May 2004 – 56% support a constitutional amendment banning same-sex marriage. Poll by KWCH 12 Eyewitness News and <i>The Wichita Eagle</i>. See <i>The Wichita Eagle</i> article 5/9/04.</p>
Kentucky	<p>1998 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — Legislature approved a constitutional amendment defining marriage as man-woman and sent it to the voters for the November 2004 ballot. Heavy constituent pressure reversed Democrat lawmakers' initial opposition to proposal. [updated 4/27]</p>	<p>On ballot</p> <p>The Legislature has approved a constitutional amendment defining marriage as man-woman and sent it to the voters for the November 2004 ballot.</p>		<p>May 2004 – 70% favor the <i>state</i> constitutional amendment on the Nov. 2 ballot. Poll by <i>Courier-Journal</i>. See AP Louisville, KY article 5/18/04.</p>

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Louisiana	1999 — Legislature passed state law defining marriage as man-woman.	<p>Amendment on <u>September</u> Ballot</p> <p>The legislature approved sending a proposed amendment to the Louisiana Constitution to voters on September 18. The measure would define marriage as a union between a man and a woman only. It would prohibit state officials and courts from recognizing a same-sex marriage, civil union or domestic partnership performed in Louisiana or any other state.</p> <p>Gay rights activists have filed a lawsuit to prevent citizens from being given the chance to vote on the ballot initiative.</p> <p>[updated 8/10]</p>		March 2004 — 62% support for a constitutional amendment that would ban same-sex marriage

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Maine	<p>1999 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — Three items: — Legislature passed and Governor is expected to sign bill refusing recognition of out-of-state same-sex marriages. — Legislature passed and Governor signed a law granting same-sex couples limited benefits (inheritance rights, guardian rights in event of incapacity of partner). — Legislature refused to act on constituent requests to pass state constitutional amendment. [updated 5/10]</p>	<p>None expected</p> <p>The deadline for a state constitutional amendment initiative process has passed.</p>		<p>March 2004 – 30.3% back full marriage rights; 31.8% oppose any legal recognition of same-sex couples. See <i>Portland Press Herald</i> (Maine) article 3/11/04.</p>

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Maryland	<p>1984 — Most recent revision to state marriage law states that only marriage between a man and a woman is valid in Maryland.</p> <p>2004 — State constitutional amendment and proposed state law expressly banning same-sex marriage were introduced and defeated in legislature. (HB 16, HB 728, SB 746). [updated 5/4]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. However, the legislature could send to the voters a state constitutional amendment for their approval. (See item to the left.)</p>	<p><i>Lawsuit filed July 7, 2004.</i> The ACLU filed a lawsuit in state court demanding that the state grant marriage licenses to same-sex couples. (AP, 7/7/04)</p>	<p>No apparent polling data.</p>
Massachusetts	<p>In March 2004 the state legislature took the first step towards passing a constitutional amendment that would (a) outlaw same-sex marriage, but (b) create a constitutional right to same-sex civil unions. The amendment must pass the legislature again, and could go to voters no earlier than November 2006.</p> <p>[updated 5/5]</p>	<p>None expected</p> <p>No citizen vote in November 2004.</p> <p>(See item to left.)</p>	<p>Activists announced on June 16, 2004, that they would challenge in court the 1913 Massachusetts law that prevents same-sex marriage by out-of-state couples.</p> <p>[updated 6/17]</p>	<p>Feb. 2004 – 44% oppose legalization of SSM while 42% favor it. Poll by Suffolk University and WHDH-TV. See Assoc. Press, 2/23/04.</p>

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Michigan	<p>1996 —Legislature passed state law defining marriage as man-woman.</p> <p>2004 — State House came up 8 votes short of the 2/3 needed to send a state constitutional amendment protecting marriage to the voters. [updated 5/4]</p>	<p>Expected to be on November ballot.</p> <p>Organizers have submitted more than 475,000 signatures in their effort to get a constitutional amendment on the state ballot this November. Only 317,000 were needed. The state must verify signatures to officially place measure on ballot. [updated 7/6]</p>		<p>Feb. 2004 – 34% support legal recognition of civil unions; 20% support legal recognition of gay marriage. <i>Lansing State Journal</i>, 4/4/04.</p>
Minnesota	<p>1997 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 —State constitutional amendment banning same-sex marriage was passed by the state House March 24 but rejected by the state Senate Judiciary committee March 26 (HF 2798). Public pressure to send the amendment to the statewide ballot is intense. (See 5/5/04 WSJ article.) Nevertheless, the state Senate refused to bring the matter up for a vote, and the legislative session ended.</p> <p>[updated 5/19]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p> <p>However, the legislature could send to the voters a state constitutional amendment for their approval. (See item to the left.)</p>		<p>3/6/04 – 58% said they would vote for a proposed amendment to the state’s Constitution that would define marriage as only between a man and a woman. 35% would oppose it. Poll by Star Tribune Minnesota. See AP St. Paul, Minnesota article 4/6/04.</p>

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Mississippi	<p>1997 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — Legislature has approved state constitutional amendment that will be on the November 2004 ballot for consideration by voters. [updated 4/27]</p>	<p>On November ballot</p> <p>State constitutional amendment will be on November 2004 ballot.</p> <p>(See item to left.)</p>		<p>No apparent polling data.</p>
Missouri	<p>1996 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — Legislature has approved a state constitutional amendment defining marriage as man-woman and sent it to the voters. See item to the right. [updated 5/19]</p>	<p>Approved by Voters Aug 2004</p> <p>71% of Missouri voters approved a state constitutional amendment to define and protect marriage as between a man and a woman. Note that more Democrats than Republicans came to the polls in this primary election due to a contested Democrat primary for Governor. [updated 8/4]</p>		<p>Feb. 2004 – More than 60% oppose the extension of the legal benefits of marriage to same-sex couples. See AP article St. Louis, Missouri 2/2/2004</p>
Montana	<p>1997 — Legislature passed state law defining marriage as man-woman.</p> <p>[updated 5/4]</p>	<p>On November ballot. Voters in November will decide whether to adopt a state constitutional amendment to define and protect marriage as between a man and a woman. More than 70,000 signatures — nearly twice the required amount — were submitted.</p> <p>[updated 7/16]</p>	<p><i>Case pending in state supreme court.</i> The Montana chapter of the ACLU sued on behalf of two lesbian employees of the Montana state university system, alleging that the state discriminates against gay and lesbian employees by giving spousal benefits only to married couples. The trial court dismissed the case in November 2002, and the case is now pending on appeal before the Montana Supreme Court. The case is called <i>Snetsinger vs. Board of Regents</i>.</p>	<p>May 2004 – 60% support a constitutional amendment defining marriage as being between a man and a woman; 31% oppose a constitutional amendment. See AP Helena, Montana article 5/30/04</p>

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Nebraska	<p>2000 — Seventy percent (70%) of voters approved a state constitutional amendment defining marriage as man-woman and barring civil unions or domestic partnerships.</p> <p>[updated 5/5]</p>	<p>None expected.</p> <p>(Citizens passed constitutional amendment with 70% of vote in 2000.)</p>	<p><i>Federal case pending in federal district court.</i> The ACLU has filed suit to challenge a state constitutional amendment that defines marriage as man-woman and bars civil unions or domestic partnerships. The ACLU argues that the state constitutional amendment violates the U.S. Supreme Court's decision in <i>Romer v. Evans</i> (1996). In a preliminary ruling, the federal district Judge Bataillon indicated sympathy with the ACLU's claim, and Nebraska Attorney General Jon Bruning told the Senate Judiciary Subcommittee on the Constitution that he expects Nebraska to lose the case.</p>	<p>No apparent polling data.</p>
Nevada	<p>2002 — Sixty-seven percent (67%) of state voters approved a state constitutional amendment defining marriage as man-woman.</p> <p>[updated 5/5]</p>	<p>None expected.</p> <p>(Citizens passed constitutional amendment with 67% of vote in 2002.)</p>		<p>March 2004 – 43% would support an amendment to the Constitution to ban gay marriage and 50% would oppose. See AP Las Vegas, NV article, 3/23/04.</p>

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<p>New Hampshire</p>	<p>1987 — Latest revision to state marriage law expressly bans same-sex marriage.</p> <p>2004 — Legislature has passed a new law that bolster existing law against same-sex marriage by prohibiting recognition of out-of-state same-sex marriages. Republican Governor Craig Benson has said he will sign a law protecting traditional marriage.</p> <p>[updated 5/4]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p> <p>However, the legislature could send to the voters a state constitutional amendment for their approval. None appears to have been proposed, as the legislature instead has focused on bolstering state statutes to protect marriage.</p>		<p>Feb. 2004 – 55% support gay marriage. 64 % oppose a constitutional amendment. Poll by UNH. See AP Manchester, N.H. article 2/27/04.</p>

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New Jersey	<p>2003 — In December 2003, the New Jersey legislature passed a law creating “domestic partnerships” for same-sex couples, granting some but not all of the rights and benefits of marriage to same-sex couples.</p> <p>2004 — In February 2004, the town of New Asbury announced it would begin conducting same-sex marriages. At least one couple “married” before the town bowed to legal pressure from the state attorney general and stopped issuing new licenses.</p> <p>[updated 4/26]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. However, the legislature could send to voters a state constitutional amendment for their approval. None appears to have been proposed.</p>	<p><i>Case pending in state court of appeals.</i> In 2002, Lambda Legal filed suit in state court on behalf of same-sex couples seeking to marry. The state district court dismissed their case and Lambda has appealed to the intermediate state appeals court. (The case is called <i>Lewis v. Harris</i>.) The Town of New Asbury, NJ, has announced it will file amicus briefs in support of the same-sex couples.</p>	<p>No apparent polling data.</p>
New Mexico	<p>No state statute defining marriage, but state common law defines marriage as man-woman.</p> <p>2004 — The State attorney general issued an opinion in February 2004 stating that marriage in New Mexico is limited to a man and a woman.</p> <p>[updated 5/5]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p> <p>The legislature could send to voters a state constitutional amendment for their approval, but the legislature will not convene again until January 2005.</p>	<p><i>Case pending in state trial court.</i> The Sandoval County clerk issued marriage licenses to same-sex couples in February 2004. A state trial court has issued a preliminary injunction to stop the issuing of these licenses, but the Sandoval County Clerk (Ms. Dunlap) continues to litigate the case. She claims New Mexico’s state constitution requires the recognition of same-sex marriage. [updated 7/14]</p>	<p>March 2004 – 61% against SSM; 48% oppose a law allowing civil unions; 51% against a constitutional amendment; 43% in favor. See <i>Albuquerque Journal</i> (N.M.) 3/22/04.</p>

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New York	<p>2004 — State attorney general Elliot Spitzer issued an opinion that same-sex marriages may not be performed in New York, but that same-sex marriages from other states should be recognized by New York.</p> <p>2004 — State bills both banning and approving same-sex marriage have been introduced in the state legislature (compare A02998, A07392, A08112, and A10551, as well as counterpart bills in state Senate); none is expected to pass.</p> <p>[updated 5/5]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p>	<p><i>Cases pending in state trial court.</i> In March and April 2004, the ACLU and Lambda Legal each filed lawsuits arguing that to deny same-sex couples the right to marry one another violates the New York Constitution. In June 2004, another lawsuit was filed in Ithaca to challenge New York's traditional marriage law.</p> <p>[updated 6/3]</p>	<p>April 2004 – 55% opposed a law that would permit same-sex couples to marry; 37% favored a law. See AP Albany, N.Y. article 4/15/04.</p>
North Carolina	<p>1996 — Legislature passed state law defining marriage as man-woman.</p> <p>A state constitutional amendment was proposed in the state legislature but it died in committee when the legislature adjourned for the year.</p> <p>[updated 7/20]</p>	<p>Possible.</p> <p>State law provides no process for citizen-initiated constitutional amendments by state ballot.</p> <p>However, the legislature could send to voters a state constitutional amendment for their approval with 3/5 approval of each House. See item to left.</p> <p>[updated 6/3]</p>	<p><i>Case withdrawn by same-sex couple.</i> In March 2004, same-sex couple was denied a marriage license by Durham County, NC, so they filed a lawsuit arguing that they have a right to marry each other under the state constitution. The state trial court dismissed their case in May 2004 due to jurisdictional questions. The couple announced in June 2004 that they were dropping their suit for now.</p> <p>[updated 6/24]</p>	<p>Feb. 2004 – 64% oppose gay marriage; 26% support. More than 57% would support an amendment to the U.S. Constitution that defines marriage as being between a man and a woman. Poll by Elon. See AP Charlotte, N.C. article 2/20/04</p>

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North Dakota	<p>1997 — Legislature passed state law defining marriage as man-woman.</p> <p>[updated 5/5]</p>	<p>Expected to be on November ballot.</p> <p>Proponents of a ballot initiative to create a constitutional amendment to protect traditional marriage submitted more than enough signatures to place measure on November ballot.</p> <p>[updated 8/5]</p>		<p>No apparent polling data.</p>
Ohio	<p>2004 — Legislature passed state law in February 2004 defining marriage as man-woman and barring state employees from obtaining benefits for their unmarried partners. Also, signatures are being gathered to put a state constitutional amendment to protect marriage on a statewide ballot.</p> <p>[updated 5/4]</p>	<p>Expected to be on November ballot.</p> <p>Organizers submitted 400,000 signatures on August 4 in order to qualify for the November ballot a constitutional amendment that would define marriage as man-woman and bar same-sex civil unions and domestic partnerships at the state or local level. However, organizers are concerned that legal challenges may still prevent the initiative from reaching the ballot.</p> <p>NOTE: There will be a pro-gay-rights local initiative on the Cincinnati ballot in November.</p> <p>[updated 8/5]</p>	NONE	<p>March 2004 — 78% said marriages between homosexuals (the word used in the question) should not be recognized by the law as valid; 66% said they favor a constitutional amendment defining marriage as being between a man and a woman, and 57% polled oppose a law that would allow homosexual couples to form civil unions with some of the legal rights of married couples. — <i>Columbus Dispatch</i>, 3/23/2004.</p>

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Oklahoma	<p>1996 — Legislature passed state law defining marriage as man-woman.</p> <p>[updated 5/4]</p>	<p>On ballot</p> <p>The legislature approved a constitutional amendment defining marriage as the union between a man and a woman. The amendment — which passed the state House 92-4 and the state Senate 38-7 — will be on the statewide ballot in November 2004.</p>	<p><i>State ballot initiative may be challenged.</i> The ACLU is threatening to challenge a November 2004 ballot initiative that would protect traditional marriage in the state constitution.</p> <p>[updated 4/27]</p>	<p>May 2004 – 71% favor a constitutional amendment. 24% are opposed. See <i>The Daily Oklahoman</i>, 5/26/2004.</p>
Oregon	<p>2004 — Legislature has been invited by state trial court judge to create same-sex marriage or civil unions, but legislative leaders are balking.</p> <p>[updated 4/27]</p>	<p>On November Ballot.</p> <p>The Secretary of State has certified enough signatures so that a constitutional amendment to define and protect marriage will definitely be on the November ballot.</p> <p>[updated 7/26]</p>	<p><i>Cases working through state court.</i> Multnomah County, which includes Portland, began issuing marriage licenses to same-sex couples in February 2004. More than 3,000 marriage licenses were issued to residents of more than 30 states. Lawsuits were filed and consolidated in before state trial court.</p> <p>On April 20, the state trial court ruled that the 3,022 same-sex marriages conducted in Oregon over the past few months are legal, and that Oregon must register the marriages as valid.</p> <p>In July 2004, an intermediate state court of appeals issued a ruling requiring the state to register the 3,022 marriage licenses issued to same-sex couples in the Portland area as valid.</p> <p>In late July, the state supreme agreed to determine whether the (unamended) state constitution permits same sex-marriage in Oregon.</p> <p>[updated 7/29]</p>	<p>March 2004 – 63% oppose gay marriages; 61% support some kind of government-sanctioned unions that give gay partners rights and benefits afforded to married couples. See <i>The Oregonian</i> 4/22/04.</p>

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
Pennsylvania	<p>1996 — Legislature passed a state law defining marriage as man-woman.</p> <p>2004 — State house tabled (96-94) a new state statutory DOMA that would have bolstered the existing 1996 law. The proposal will not be reconsidered until after the November 2004 election. (per AP reports; 5/27/04)</p> <p>[updated 5/27]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p> <p>However, the legislature could send to voters a state constitutional amendment for their approval — but only if the amendment were passed in two successive years. No amendment appears to have been proposed.</p>	<p><i>Lawsuit threatened after same-sex couple denied marriage license.</i> Per the 4/26/04 Philly Inquirer, two men were denied a marriage license in Bucks County and are currently contemplating a lawsuit and are working with gay rights advocates.</p>	<p>March 2004 – 63% oppose a law allowing same-sex couples to marry, 31 % support such a law; 50% say states should regulate SSM, 38% support a constitutional amendment. See <i>The Philadelphia Inquirer</i> 3/19/04.</p>
Rhode Island	<p>No state statute defining marriage, but state common law defines marriage as man-woman.</p> <p>2004 — Bills to legalize and to ban same-sex marriage have been introduced; none is expected to pass.</p> <p>[updated 4/27]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. However, the legislature could send to voters a state constitutional amendment for their approval. No amendment appears to have been proposed.</p>	<p>OTHER: The state attorney general stated on May 17 that he interpreted Rhode Island law to require recognition of Massachusetts’ same-sex marriages. This interpretation is likely to be challenged in court.</p> <p>[updated 5/20]</p>	<p>31% support same-sex marriage; 43% support “civil unions that would give [] some legal rights”; 24% opposed either form of recognition. See <i>Providence Journal</i> 3/17/04.</p>

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
South Carolina	<p>1996 — Legislature passed a state law defining marriage as man-woman.</p> <p>2004 — The state House approved a bill that would strengthen the state's existing DOMA by forbidding the state to recognize same-sex marriages or to grant marriage-like benefits to same-sex couples (HB 4657); awaits action in the Senate.</p> <p>[updated 5/4]</p>	<p>Possible</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. However, the legislature could send to voters a state constitutional amendment for their approval. <i>No amendment appears to have been proposed.</i></p>		<p>No apparent polling data.</p>
South Dakota	<p>1996 — Legislature passed a state law defining marriage as man-woman.</p> <p>2004 — Bill that would strengthen the state's existing law by forbidding the state to recognize same-sex marriage or to grant marriage-like benefits to same-sex couples was introduced — but failed. (HB 1289)</p> <p>[updated 4/27]</p>	<p>None expected</p> <p>The state constitution permits direct ballot initiatives for state constitutional amendments, but <i>the deadline for beginning that process for inclusion on the November 2004 ballot was May 4, 2004.</i></p>		<p>April 2004 – 63% support an amendment that would recognize marriage as between one man and one woman and would outlaw SSM; 32% oppose. See AP article, 4/3/04.</p>

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
Tennessee	<p>1996 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — The Legislature passed a state constitutional amendment that must receive approval next year before it can go to voters in 2006.</p> <p>[updated 5/19]</p>	<p>None expected.</p> <p>See 2004 item to left.</p>	<p>The Associated Press reported on March 10 that a same-sex couple was planning a lawsuit challenging Tennessee’s marriage laws.</p> <p>The Tennessean reported on May 19: <Tennessee law may be challenged. Hedy Weinberg, director of the American Civil Liberties Union of Tennessee, said her organization is talking to local attorneys and also with couples who either recently married in Massachusetts or are planning to. “Tennessee joins other states that are going to be facing that issue as couples return from Massachusetts,” she said. “ACLU is certainly considering pursuing" a legal challenge.”></p>	<p>March 2003 – 70% against SSM; 21% in support of SSM; 61% against civil unions; 32% in support of civil unions. <i>The Tennessean</i>, 3/16/04.</p>
Texas	<p>2003 — Legislature passed a state law defining marriage as man-woman.</p> <p>[updated 5/4]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. The legislature can put an amendment on the state ballot, but is not in session until 2005.</p>	<p><i>Same-Sex Divorce Case Dismissed.</i> In March 2003, a Texas state court district judge granted a divorce to two Texas men who had entered into a civil union in Vermont in 2002. Later that month the judge vacated his order after the state attorney general stepped in to point out that Texas does not recognize Vermont civil unions.</p>	<p>No apparent polling data.</p>

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
Utah	1995 — Legislature passed a state law defining marriage as man-woman. [updated 5/4]	On ballot		May 2004 – 41% believe a <i>state</i> constitutional amendment is unnecessary; 54% support a state constitutional amendment. In January, a poll stated that 80% were in favor of defining marriage as a legal union between a man and a woman. See <i>The Salt Lake Tribune</i> , 5/14/2004.

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
Vermont	<p>1999 — Marriage is defined as union of one man and one woman. 15 Vt. Stat. ch. 1, sec. 8.</p> <p>2000 — Legislature enacted state civil unions when state supreme court threatened to impose same-sex marriage on the state.</p> <p>2004 — State constitutional amendment banning same-sex marriage introduced (PR0005) but is not expected to pass. A bill has been introduced that would allow same-sex couples to marry (HB 676).</p> <p>[updated 5/20]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p> <p>A state constitutional amendment banning same-sex marriage has been introduced in the legislature, but is not expected to pass.</p>		No apparent polling data.
Virginia	<p>1997 — Legislature passed a state law defining marriage as man-woman.</p> <p>2004 — The legislature passed a new law denying legal recognition to same-sex civil unions (HB 751). Gov. Warner signed the bill.</p> <p>[updated 5/6]</p>	<p>None expected</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. The state legislature could pass a constitutional amendment, but that constitutional amendment would need to be approved again in a future legislative session, and only then could the proposed amendment go to the ballot.</p>		October 2003 – 64% would oppose a Virginia law allowing homosexuals to marry; 25% favored a law. See <i>Daily Press</i> (New port News, VA) 10/25/03.

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
Washington	<p>1998 — Legislature passed state law defining marriage as man-woman.</p> <p>2004 — State constitutional amendment was introduced but died in state legislative committee when the legislature adjourned (HJR 4220).</p> <p>[updated 4/27]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot.</p> <p>State legislature can refer a constitutional amendment to the statewide ballot, but (as noted in item to left) the legislature has failed to do so.</p>	<p><i>Cases pending in state trial court and in federal bankruptcy court.</i></p> <p>A <u>state</u> trial court judge has ruled that Washington must issue licenses to same-sex couples in Washington. The judge stayed his order until a higher court can review it.</p> <p>Another lawsuit is currently pending in Washington state court — a claim seeking interstate recognition of a marriage license issued in Oregon. A hearing is scheduled for September 2, 2004.</p> <p>In another case in federal bankruptcy court, a lesbian couple married in Canada filed a joint petition for bankruptcy, in violation of DOMA. The federal bankruptcy judge is evaluating the constitutionality of DOMA. [updated 8/5]</p>	<p>March 2004 – more than 50% oppose marriage rights for same-sex couples, compared to 44% who support it. Poll by <i>The Seattle Times</i>. See AP Spokane, Washington article 4/2/04.</p>
West Virginia	<p>2000 — Legislature passed state law defining marriage as man-woman.</p> <p>[updated 5/4]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. The legislature is out of session for 2004.</p>	<p><i>Case dismissed by state supreme court; possible review by United States Supreme Court.</i> On April 21, 2004, the state supreme court denied four same-sex couples' request that the state high court recognize a right to same-sex marriage in the West Virginia constitution <u>and in the U.S. Constitution</u>. The ACLU lawyers who brought this lawsuit can now petition the U.S. Supreme Court for review because they made arguments based on the federal Constitution.</p>	<p>No apparent polling data.</p>

State	Action in Legislature	Statewide Ballot Initiatives for November 2004	Court Cases Pending	In-State Polls
Wisconsin	<p>1979 — Marriage is defined as a civil contract between a “husband and a wife.” Wisc. Stat. sec. 765.01.</p> <p>2003 — Proposed statute to establish a state DOMA was approved by the Legislature but vetoed by Democratic Gov. Jim Doyle in 2003. (SJR, 63, AJR 66).</p> <p>2004 — State constitutional amendment banning same-sex marriage and civil unions has been approved by the both chambers of the Legislature. The legislation must clear both houses again in the 2005 session before going before voters in a statewide referendum.</p> <p>[updated 5/20]</p>	<p>None expected.</p> <p>No ballot initiative for November 2004. (See item to left.)</p>		<p>April 2004 – 64% support an amendment defining marriage as between a man and a woman. See <i>Capital Times</i> (Madison, WI) 4/12/04.</p>
Wyoming	<p>Wyoming state law only permits marriage between man and a woman.</p> <p>2004 — Legislation to enact a state law modeled after DOMA was introduced but failed in the state legislature.</p> <p>[updated 5/4]</p>	<p>None expected.</p> <p>State law provides no process for citizen-initiated constitutional amendments dealing with marriage by state ballot. (Statutory direct initiatives are permitted.) The legislature can refer constitutional amendments to the statewide ballot, but is out of session for 2004.</p>		<p>No apparent polling data.</p>

