



## Legislation Text

---

**File #:** Res 0207-2004, **Version:** \*

---

### Res. No. 207

Resolution calling upon the Mayor to instruct the City Clerk to recognize the fundamental rights of same-sex partners by issuing marriage licenses to same-sex couples in the City of New York.

By Council Members Quinn, Brewer, Gerson, Moskowitz, Reed, Jackson, Koppell and Liu

Whereas, There is currently an impassioned debate over same-sex civil marriage at all levels of government, including Congress and the White House, state legislatures, and city and town halls across the United States; and

Whereas, On February 24, 2004, President Bush stated that he supports a constitutional amendment defining marriage as a union between a man and a woman; and

Whereas, Conversely, state and local jurisdictions across the country are questioning laws that deny same-sex couples the basic right to marry and deprive same-sex couples of protections and benefits automatically given to married couples; and

Whereas, Thousands of same-sex couples have been married in San Francisco since February 12, 2004, when San Francisco Mayor Gavin Newsom instructed city officials to issue marriage licenses to same-sex couples based on the prohibition of discrimination based on gender and sex in California's Constitution; and

Whereas, On February 27, 2004, Mayor Jason West of New Paltz, New York began performing marriage ceremonies for same-sex couples who were unable to obtain marriage licenses from the New Paltz city clerk; and

Whereas, The New York State Health Department released a statement in response to Mayor West's actions, asserting that the issuance of marriage licenses to same-sex couples violates the New York State Domestic Relations Law; and

Whereas, On March 2, 2004, city officials in Ithaca, New York challenged the New York State Health Department's position against same-sex civil marriage by accepting applications for marriage licenses by same-sex couples and forwarding them to the Health Department; and

Whereas, On March 3, 2004, Mayor John Shields of Nyack, New York, who recently stated that Nyack would respect same-sex civil marriages performed in other states or counties, declared his intention to begin officiating wedding ceremonies for same-sex couples; and

Whereas, On March 3, 2004, county officials in Portland, Oregon began distributing marriage licenses to same-sex couples after a March 2 decision made by Multnomah County Chair Diane Linn; and

Whereas, On November 18, 2003, the Massachusetts Supreme Judicial Court held in Goodridge v. Department of Public Health that prohibiting same-sex civil marriage violates rights protected by the Massachusetts Constitution; and

Whereas, The Goodridge Court reasoned that “[b]arred access to the protections, benefits, and obligations of civil marriage, a person who enters into an intimate, exclusive union with another of the same sex is arbitrarily deprived of membership in one of our community’s most rewarding and cherished institutions. That exclusion is incompatible with the constitutional principles of respect for individual autonomy and equality under law;” and

Whereas, In finding no rational basis for a ban on civil marriage between same- sex partners, the Goodridge Court explained that “[t]he marriage ban works a deep and scarring hardship on a very real segment of the community for no rational reason. The absence of any reasonable relationship between, on the one hand, an absolute disqualification of same sex couples who wish to enter into civil marriage and, on the other, protection of public health, safety, or general welfare, suggests that the marriage restriction is rooted in persistent prejudices against persons who are (or who are believed to be) homosexuals;” and

Whereas, In 2002, the New York State legislature amended state anti-discrimination law to protect persons from discrimination based on sexual orientation, explaining that “many residents of this state have

encountered prejudice on account of their sexual orientation, and that this prejudice has severely limited or actually prevented access to employment, housing and other basic necessities of life, leading to deprivation and suffering. The legislature further recognizes that this prejudice has fostered a general climate of hostility and distrust, leading in some instances to physical violence against those perceived to be homosexual or bisexual. In so doing, the legislature makes clear its action is not intended to promote any particular attitude, course of conduct or way of life. Rather its purpose is to ensure that individuals who live in our free society have the capacity to make their own choices, follow their own beliefs and conduct their own lives as they see fit, consistent with existing law;” and

Whereas, Numerous actions of courts and elected officials in New York State in recent years have demonstrated evidence of a recognition that same-sex partners in committed relationships deserve fundamental protections that historically have been limited to married opposite-sex partners; and

Whereas, In recent years, the Association of the Bar of the City of New York has published two reports concluding that “a strong argument can be made that the Equal Protection Clauses of both the federal and New York Constitutions require that the fundamental right of marriage be available to all couples of suitable capacity regardless of their sex;” and

Whereas, Disallowing same-sex civil marriages prevents thousands of same-sex couples and their children living in New York City from enjoying basic rights and guarantees enjoyed by married opposite-sex partners; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Mayor to instruct the City Clerk to recognize the fundamental rights of same-sex partners by issuing marriage licenses to same-sex couples in the City of New York.

JDS