

**boston.com**

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

## Gays lose challenge to Fla. adoption ban

The Boston Globe

By Associated Press, 1/29/2004

MIAMI – Four gay men lost a federal challenge yesterday to the only state law completely banning homosexuals from adopting children, a statute passed at the height of Anita Bryant's antihomosexual campaign.

The US Court of Appeals for the 11th Circuit ruled against the men, who are foster parents seeking to adopt children in their care.

"Obviously we're crushed," said Paul Cates, with the American Civil Liberties Union's Lesbian and Gay Rights Project.

Governor Jeb Bush said he was pleased by the ruling. It validates Florida's contention "that it is in the best interest of adoptive children, many of whom come from troubled and unstable backgrounds, to be placed in a home anchored both by a father and a mother," he said in a statement.

Florida is the only state with a total ban on adoption by gays. The 1977 law has withstood several challenges in state court.

Florida argued the state has a right to legislate its "moral disapproval of homosexuality" and its belief that children need a married parent for healthy development.

"We exercise great caution when asked to take sides in an ongoing public policy debate," Judge Stanley Birch wrote in the unanimous decision by the three-judge panel. "Any argument that the Florida Legislature was misguided in its decision is one of legislative policy, not constitutional law."

Mathew Staver, president of Liberty Counsel, a conservative civil liberties legal group, hailed the decision. "In this age of judicial activism, it is refreshing to see a court assume its proper role and allow the people to set family policy," he said.

An after-hours call to the attorney who argued the state's case was not immediately returned. The decision comes as states react to such recent developments as the Massachusetts Supreme Judicial Court's ruling favoring gay marriage and the Supreme Court's ruling striking down laws criminalizing gay sex. Edward Schiappa, a University of Minnesota law professor who follows gay rights issues, said he believes the case is destined for Supreme Court review next year. He said he believes the state will have a hard time defending the law there because of its inconsistent policy allowing gay foster parents while banning gay adoptive parents.

© Copyright 2004 Globe Newspaper Company.

© Copyright 2004 The New York Times Company