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Couples Enter New Terrain in Push for Gay Marriage in Connecticut

By [JENNIFER MEDINA](#)

HARTFORD, May 11 — When the [Connecticut](#) legislature approved civil unions three years ago, gay rights advocates viewed it as only a half-victory, a kind of pit stop in their quest for same-sex marriage.

On Monday, lawyers representing eight same-sex couples will take up the second half of the fight in oral arguments before the Connecticut Supreme Court, where they will tell the judges that civil unions essentially create a “separate and unequal” status for gay men and lesbians.

With civil unions now legal in a handful of states and gay marriage permitted in Massachusetts, advocates and scholars on both sides of the debate are watching the case closely to see how judges navigate the new legal terrain.

Last July, a Superior Court judge ruled against the plaintiffs, saying that the state’s civil unions already gave same-sex couples the rights and protections of marriage. The couples are being represented by the Gay and Lesbian Advocates and Defenders, the same group that successfully sued for marriage in Massachusetts.

But Bennett Klein, one of the lawyers leading the plaintiffs’ case, said the civil union law made the argument for marriage “more powerful and compelling.”

“A law that says every right, every benefit and every legal aspect of marriage is given to same-sex couples shows that this is nothing more than a legislative policy decision of a special legal institution,” Mr. Klein said. “The legislature already determined a fundamental sameness between couples. Constitutional law has discarded long ago any notion that a separate institution for a minority can ever be equal.”

Opponents of gay marriage, who generally opposed the civil union law in 2004, also say that the outcome of the court case will bring clarity to the question of whether the state has the authority to define marriage.

Maggie Gallagher, president of the Institute for Marriage and Public Policy, which opposes gay marriage, said the case was likely to turn same-sex

unions into a “black and white, either-or” issue.

“That is a striking and unfortunate consequence of a compromise,” Ms. Gallagher said, adding that she did not necessarily oppose civil unions. “That means that every debate will come down to the question of all or nothing; that either you think there is no difference for gay couples or you are a bigot.”

Indeed, gay rights advocates have long debated whether they should push for marriage or accept civil unions as a viable alternative. In Connecticut, Love Makes a Family, a gay rights lobbying group, ultimately decided to endorse the civil union legislation even as it pledged to push for marriage in both the court and the legislature.

While Vermont was the first state to approve civil unions, in 2000, Connecticut was the first to do so without any pressure from the court. In New Jersey, the State Supreme Court ordered the Legislature to approve some form of same-sex measure; it approved civil unions last year. Last month, the New Hampshire legislature voted for civil unions, and the governor has said he will sign the bill.

A Connecticut civil union confers virtually the same rights under state law as heterosexual marriage, including equal treatment on state income tax returns and in estates. Like other states, Connecticut cannot give same-sex couples federal rights like Social Security and veterans benefits for surviving spouses.

There have been some concerns about companies’ and health insurers’ unfamiliarity with how to handle civil unions and about civil partners being denied the same benefits as married spouses. But the plaintiffs’ central argument is that a separate name for homosexual couples is unequal.

Only Massachusetts has same-sex marriage. Gov. [Eliot Spitzer](#) has proposed it in New York, though he faces opposition in the Republican-led Senate.

Last month the Connecticut General Assembly’s judiciary committee approved same-sex marriage legislation by a vote of 27 to 15, a larger margin than was expected by even the most optimistic advocates. But there was doubt about whether the measure would win the 76 votes it needed in the House. On Friday, legislative leaders announced that the bill would not come up for a vote on the floor this year, saying that a number of lawmakers wanted more time to consider it.

“We are disappointed that after coming so far, we did not quite have the votes we needed to advance the bill this session,” said Anne Stanback, the executive director of the Connecticut chapter of Love Makes a Family. But she views same-sex marriage almost as an inevitability, whether it comes from the court or from the legislature. “Ultimately, we will take our equality any way we can get it.”

Gov. [M. Jodi Rell](#), [a Republican](#), has said that she would veto same-sex marriage legislation. In 2004, she persuaded legislators to add an amendment that defined marriage as being between a man and a woman.

In Connecticut, where social liberalism is often in an odd dance with blue-blood tradition, polls have often showed a slight majority in favor of same-sex marriage. A poll by the [University of Connecticut](#) and The Hartford Courant last month showed 49 percent in favor of same-sex marriage and 46 percent opposing it, within the poll's 4.4 point margin of error. The same poll showed 62 percent supporting civil unions.

Among the eight couples named in the lawsuit, there is an even divide between those who decided to press ahead with civil unions while the case proceeded through the courts and those who opted to wait for marriage.

John Anderson and Garrett Stack, retired teachers from Woodbridge who have been together for more than 25 years, said waiting for marriage would have been silly, as though they were playing Russian roulette with their lives.

"We are men of a certain age," said Mr. Stack, 64. "When you realize that most of your life is behind you, you want to make sure that one of you is taken care of."

Mr. Anderson, 60, said that although he felt like a "second-class citizen" he was also grateful for the first step.

"We are no longer in the back of the bus, but we can't quite sit in the front of the bus," he said.

But J. E. Martin and her partner, Denise Howard, decided that waiting for marriage was a matter of principle.

"We want all the trappings that go with the word," said Ms. Martin, who is raising two children with Ms. Howard in Stratford. "When you walk in some place and say that you are married, that means something. What would we say, that we are civilized? Unionized? It just doesn't have the same ring."

Both supporters and opponents of same-sex marriage recognize the importance of words in the debate.

William B. Rubenstein, a law professor at the [University of California](#) at Los Angeles and author of "Sexual Orientation and the Law," said the "symbolic naming" is hard to dismiss.

"In a way, it seems that this is both a harder and easier lawsuit than what has existed elsewhere," Mr. Rubenstein said. "It is not looking to rework a whole entire system. All that is being asked to change is very minimal, and so you are fighting over wording. But wording has held up legal battles

for a long time.”

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