

The **ADVOCATE**

State's high court considers same-sex marriage lawsuit

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HARTFORD, Conn. -- Eight gay and lesbian couples took their fight for same-sex marriage to the state Supreme Court on Monday, almost two years after visiting a town clerk's office for marriage licenses and walking out empty-handed.

Arguments wrapped up in about three hours, but it will likely be months before justices finish dissecting the nuances of marriage, interpretations of tradition and promises of equal treatment in a case that could break new ground.

The case also raises questions about whether the state's 2005 civil unions law - the first adopted nationwide without court pressure - helped or hurt same-sex couples in their quest for equality.

The plaintiffs want the court to rule that the state's marriage law is unconstitutional because it applies only to heterosexual couples, therefore denying gay couples the financial, social and emotional benefits of marriage.

"What is denied to these families is something that goes to the heart of equal protection, which is the right to be part of the fabric of society when they are just the same as other couples and other families," said their attorney, Bennett Klein.

The state argued that Connecticut's civil unions law gives the couples the equality they seek, and that the issue is a policy question best left to lawmakers rather than judges.

"All of those rights and benefits, at least under state law, have been granted," Assistant Attorney General Jane Rosenberg said. "From a legal perspective, there are no rights that have been taken away from that group and, in fact, equal rights have now been given to that group."

As several states consider civil union laws, the Connecticut case could have nationwide ramifications. People on both sides said Monday they are well aware of its significance.

"Our 9-year-old said it best: 'How is the world supposed to get better if nothing changes?'" said Geraldine Artis of Clinton, who is a plaintiff along with her partner of 13 years, Suzanne Artis.

One recurring theme at Monday's hearing was whether gays and lesbians should be considered a protected group, the legal term for a segment of the population that, among other things, is particularly vulnerable to discrimination and lacks political power.

Peter Wolfgang, public policy director for the Family Institute of Connecticut, which opposes same-sex marriage, said that claim is undercut by the civil unions law, the growing number of openly gay lawmakers in powerful positions, and a recent legislative committee vote in favor of same-sex marriages.

"I think it would be very hard to argue that gays and lesbians are powerless in Connecticut in 2007," Wolfgang said after the hearing.

If justices agree with the same-sex couples, they could order the case back to the trial court, with instructions to rule in favor of the couples. They could also order the General Assembly to consider overhauling the current marriage laws.



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Currently, only Massachusetts allows same-sex couples to marry.

Connecticut, Vermont, California, New Jersey, Maine and Washington have laws allowing either civil unions or domestic partnerships, and a civil unions law is expected to take effect in New Hampshire in January. Hawaii extends certain spousal rights to same-sex couples and cohabiting heterosexual pairs.

The Connecticut couples say civil unions are inferior to marriage and violate their rights to equal protection and due process.

Married couples have federal rights related to taxes, Social Security beneficiary rules, veterans' benefits and other laws that people in civil unions don't have.

Because civil unions aren't recognized nationwide, other rights, such as the ability to make medical decisions for an incapacitated partner, disappear when couples cross state lines.

The Connecticut couples filed their lawsuit in August 2004. A lower court dismissed the claim last year.

The state Department of Public Health and the Madison town clerk's office were named as defendants in the case after denying marriage licenses to the couples based on state Attorney General Richard Blumenthal's advice.

A similar case is pending before California's high court.

A bill pending in the Connecticut legislature would allow same-sex marriage, but leaders of the Judiciary Committee say they want to pull it from consideration this session because they do not believe enough lawmakers would vote to approve it.

Republican Gov. M. Jodi Rell, who signed the civil unions bill in 2005, has said she believes marriage is between one man and one woman and would veto a gay marriage bill.

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