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FROM TODAY'S COURANT

Suit Paints Same-Sex Marriage As Ordinary

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By DANIELA ALTIMARI, Courant Staff Writer

Seven same-sex couples suing for the right to marry in Connecticut are basing their case on state constitutional provisions markedly similar to those used to validate gay marriage in Massachusetts.

At the lawsuit's core is the principle of equal protection, which holds that all citizens are entitled to the same rights.

But social change is about much more than legal arguments. Through what promises to become a landmark lawsuit, gay and lesbian activists are asserting that, like any other committed couples, they are entitled to the privileges and protections of marriage.

The 24-page lawsuit, filed Aug. 25 in Superior Court in New Haven, is light on legalese. Instead, the complaint uses a breezy narrative style evocative of People magazine to paint a portrait of seven ordinary families, complete with soccer practices, baby showers and other humdrum details of everyday life.

"We're just as boring as anyone else," said John Anderson of Woodbridge, one of the plaintiffs.

The couples in the lawsuit detail their commitments to each other and responsibilities to their children, invoking the power of traditional family values. Above all, they describe the problems they have because their bonds lack legal standing.

Some of the couples have been banished from their partners' hospital rooms; others are prevented from claiming their partners' Social Security, health or retirement benefits. One woman worries that she would be ineligible for her partner's season tickets to University of Connecticut games if the partner died.

"What struck me about this complaint is its simplicity," said Jennifer Gerarda Brown, a law professor at Quinnipiac University in Hamden who has studied the way judges respond to gay and lesbian litigants.

"Clearly the lawyers who drafted it have a story to tell, and I think that's a wise approach. ... No matter what happens to the case as it moves through the Connecticut courts, it can still have an impact educating the public."

Opponents of gay marriage disagree. Mark Dost, a Waterbury family law attorney who has written articles opposing same-sex marriage, said the lawsuit "reads like a press release" that "moves away from ideas and focuses on personal stories."

Mary Bonauto, civil rights director for Gay & Lesbian Advocates & Defenders, the Boston-based legal advocacy

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group that filed the lawsuit on behalf of the seven couples, said the lawsuit is aimed primarily at the court. But she agreed that it puts a human face on the issue. GLAD employed a similar strategy in its successful drive to legalize gay marriage in Massachusetts.

"We are trying to shine the light on the real people ... because we think the people involved in this case demonstrate how unfair and wrong this type of marriage discrimination is," Bonauto said.

The lawsuit comes as conservatives across the country are mobilizing against same-sex unions. This fall, voters in Arkansas, Georgia, Kentucky, Michigan, Mississippi, Montana, Oklahoma, Oregon and Utah will consider amendments to their state constitutions outlawing gay marriage.

The issue promises to be central in this fall's presidential campaign, with President Bush pressing for a measure that would enact such a ban on the federal level.

In Connecticut, the General Assembly approved a bill extending a limited bundle of rights to gay and lesbian couples in 2002. Activists have been lobbying for same-sex marriage since then, and plan to renew their push when the legislature convenes early next year.

"There is a full-scale assault on marriage," said Brian Brown, executive director of the Family Institute of Connecticut, which is pushing for an amendment to the state constitution prohibiting gay marriage. "GLAD is attempting to use the courts to rewrite the law."

Courts have often been at the center of sweeping social change, such as the landmark 1954 Brown vs. Board of Education U.S. Supreme Court decision that outlawed segregation in public schools.

For supporters of gay rights, the courts have been a friendlier venue than either state legislatures or voting booths. Last month, a Superior Court judge in Washington state ruled that same-sex couples have the right to marry, although no marriage licenses will be issued until the state Supreme Court rules.

In both Connecticut and Massachusetts, GLAD based its legal challenge on the claim that prohibiting same-sex couples from marrying violates the equal protection and due process clauses of the state constitutions.

In Massachusetts, the argument worked. In a historic opinion issued Nov. 18, the commonwealth's highest court ruled in GLAD's favor, smoothening the way for Massachusetts to become the first state in the nation to permit gay marriage. Chief Justice Margaret Marshall wrote that there was no constitutional basis for preventing same-sex partners from marrying.

"The Massachusetts Constitution affirms the dignity and equality of all individuals. It forbids the creation of second-class citizens," Marshall wrote. "In reaching our conclusion, we have given full deference to the arguments made by the Commonwealth. But it has failed to identify any constitutionally adequate reason for denying civil marriage to same-sex couples."

Some lawyers believe the case has a strong chance of succeeding in Connecticut, given the state's history. The legislature passed a measure banning discrimination on the basis of sexual orientation in 1991, becoming one of the first states to endorse a gay rights bill.

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But critics of gay marriage say elected officials, not the courts, should decide the matter. "Judges aren't elected by the people," Dost said. "This lawsuit is an attempt to hijack the democratic process."

Dost predicts the Connecticut courts will be less friendly than courts in Massachusetts. The state Supreme Court, he said, resisted changing the law in a 1999 gay rights case, deferring to the legislature instead.

The case involved a boy known as "Baby Z" who was being raised by both partners in a lesbian relationship. Although he was legally related only to the woman who gave birth to him, her partner wanted to legally adopt him.

But the Supreme Court ruled that the non-biological mother could not adopt the boy because the General Assembly had not authorized unmarried couples to adopt their partners' children. The legislature passed such a bill in 2000.

"The court told the plaintiffs in the Baby Z case that in order to have second-parent adoption, you have to get the legislature to pass a law," Dost said. "And that's what they did, which is the way it should be."

Striking a similar theme, Attorney General Richard Blumenthal, who will defend the state in the lawsuit, noted that Connecticut currently does not permit gays and lesbians to marry.

"Whatever our own personal beliefs, we are bound by the laws adopted by our legislature and interpreted by our courts," Blumenthal said in a legal opinion released in May, before the GLAD lawsuit was filed. "Our law can be altered - and is developing - but that is the responsibility of our General Assembly."

The Connecticut case could take as long as three years to make its way through lower courts and the state Supreme Court.

But Anderson and his partner, Garrett Stack, say they are prepared to wait. The pair, one of the seven couples suing the state, have been together for 24 years and plan to spend the rest of their lives that way.

Said Anderson, "It's important for us to become full-fledged citizens."

A discussion of this story with Courant Staff Writer Daniela Altimari is scheduled to be shown on New England Cable News each hour Tuesday between 9 a.m. and noon.

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